

**State Board of Embalmers and Funeral Directors**

**June 14-16, 2010  
Division of Professional Registration  
3605 Missouri Blvd  
Jefferson City, Missouri**

**OPEN MEETING MINUTES**

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**Monday, June 14, 2010 6:00 p.m.**

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman, at 6:00 p.m. on Monday June 14, 2010 at the Division of Professional Registration, 3605 Missouri Blvd, Jefferson City, Missouri.

**Roll Call**

**Board Members Present**

Gary Fraker, Chairman  
D. Todd Mahn, Vice Chairman  
John McCulloch, Secretary  
James Reinhard, Member  
Martin Vernon, Member  
Joy Gerstein, Public Member

**Staff Present**

Becky Dunn, Executive Director

**Approval of Agenda**

Motion was made by D. Todd Mahn and seconded by John McCulloch to approve the open agenda. Motion carried with James Reinhard, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition.

**Closed Meeting**

Motion was made by John McCulloch and seconded by Joy Gerstein to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 324.001.8 RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection (14) of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings.

Motion carried with D. Todd Mahn, Martin Vernon, James Reinhard and Joy Gerstein voting in favor with no votes in opposition.

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**Tuesday June 15, 2010 – 9:30 a.m.**

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman, at 9:45 a.m. on Tuesday, June 15, 2010 at the Division of Professional Registration, Jefferson City, MO.

**Roll Call**

**Board Members Present**

Gary Fraker, Chairman  
D. Todd Mahn, Vice Chairman  
John McCulloch, Secretary  
James Reinhard, Member  
Martin Vernon, Member  
Joy Gerstein, Public Member

**Staff Present**

Becky Dunn, Executive Director  
Lori Hayes, Inspector  
Pamela Schnieders, Administrative Assistant  
Earl Kraus, Senior Legal Counsel  
Sharon Euler, Assistant Attorney General  
Connie Clarkston, Director of Budget and Legislation

**Public Present**

Melissa Palmer, Department of Insurance, Financial Institutions and Professional Registration  
Christie Kincannon, Division of Finance  
Mark Monia, Liberty Pre-Need Services  
Rebecca Blake, Homesteaders Life Insurance Company  
Tracy Kelly, Homesteaders Life Insurance Company  
Mark Warren, Homesteaders Life Insurance Company  
Sherri Arcobasso, Criswell Casket Company

**Approval of Agenda**

A motion was made by Martin Vernon and seconded by John McCulloch to approve the open agenda. Motion carried with D. Todd Mahn, James Reinhard, and Joy Gerstein voting in favor with no votes in opposition.

**Approval of Minutes**

A motion was made by Martin Vernon and seconded by John McCulloch to approve the following Open Meeting Minutes as submitted:

**March 30-April 1, 2009 Open Meeting Minutes**

**August 4-5, 2009 Open Meeting Minutes**

**August 11, 2009 Open Meeting Minutes**

**August 19, 2009 Open Meeting Minutes**  
**August 25, 2009 Open Meeting Minutes**  
**September 2-3, 2009 Open Meeting Minutes**  
**October 20, 2009 Open Meeting Minutes**  
**November 5, 2009 Open Meeting Minutes**

Motion carried with D. Todd Mahn, James Reinhard, and Joy Gerstein voting in favor with no votes in opposition.

### **Financial Overview**

Becky gave a Financial Overview.

Proposed Fee Projections

\$200 Seller License Fee

\$200 Seller Renewal Fee

\$0 Provider Renewal Fee

\$50 Agent Renewal Fee

\$100 Provider Renewal Delinquent Fee

\$200 Seller Renewal Delinquent Fee

\$50 Agent Renewal Delinquent Fee

If considered by the board, we need to submit an emergency rule. Set the fees as proposed and submit an emergency rule.

There is a finding of confident and substantial evidence to support the need for this rule.

Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the proposed fees. Motion carried with John McCulloch voting in favor. D. Todd Mahn and James Reinhard voted in opposition.

Sandy Sebastian- met with the Board and discussed the new full time employee positions and the process of classification of positions and recruitment.

### **Closed Meeting**

Motion was made by Martin Vernon and seconded by D. Todd Mahn to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 324.001.8 RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection (14) of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings.

Motion carried with Gary Fraker, John McCulloch, James Reinhard and Joy Gerstein voting in favor with no votes in opposition.

The Board reconvened in Open Session at 1:40 p.m. on June 15, 2010.

Gary Fraker, Board Chairman announced Sandy Sebastian as the incoming Executive Director.

### **SB 1 Implementation Update**

Connie Clarkston explained the enforcement authority of SB 1 regarding the additional 5 full time employee positions. They are as follows: 2 financial analysts, 1 licensing tech, 1 accounting specialist, 1 investigator.

### **Legislative Proposals**

The board reviewed the current legislative proposals.

Christy Kincannon spoke on Joint Accounts stating that she does not think there is a conflict with the accounts, just practical application issues.

James Reinhard made a motion that for sellers who have 35 contracts and under be audited by verifying cd by inspectors. This motion was withdrawn prior to receiving a second or votes.

### **333.041- Proposal is attachment A**

A motion was made by John McCulloch and seconded by Martin Vernon to accept the proposed legislation to remove the residency requirement language. Motion carried with D. Todd Mahn, James Reinhard, and Joy Gerstein voting in favor with no votes in opposition.

### **333.041- Proposal is attachment B**

A motion was made by James Reinhard and seconded by John McCulloch to accept the proposed legislation to remove the oral examination requirement language. Motion carried with D. Todd Mahn, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition.

### **333.042- Proposal is attachment C**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to accept the proposed legislation to add "consecutive" to twelve month apprenticeship requirement. Motion carried with James Reinhard and Joy Gerstein voting in favor. John McCulloch voted against the approval.

### **333.051- Proposal is attachment D**

A motion was made by Joy Gerstein and seconded by John McCulloch to accept the proposed legislation to remove the residency language and add "embalming" to the legislation. Motion carried with D. Todd Mahn, James Reinhard and Martin Vernon voting in favor with no votes in opposition.



**333.061.1- Proposal is attachment E**

A motion was made by John McCulloch and seconded by Joy Gerstein to accept the proposed legislation to remove language requiring the register log to be in the preparation or embalming room. Motion carried with D. Todd Mahn, James Reinhard and Martin Vernon voting in favor with no votes in opposition.

**333.091- Proposal is attachment F**

A motion was made and passed to accept proposed language to eliminate the section. Motion carried with D. Todd Mahn, James Reinhard and Martin Vernon voting in favor with no votes in opposition.

**333.151- Proposal is attachment G**

A motion was made by James Reinhard and seconded by D. Todd Mahn to remove the following "An audited", "by an independent auditor", "this audited financial statement must" and to change the board members from ten to six, change five members of the board to three and remove the congressional district language.

**333.310- Proposal is attachment H**

Sharon Euler advised against this proposal due to federal laws, she also reminded the board the order they are under by FTC. A motion was made by John McCulloch and seconded by Martin Vernon. Motion carried with James Reinhard and Joy Gerstein voting in favor with D. Todd Mahn in opposition.

**333.315- Proposal is attachment I**

A motion was made by Martin Vernon and seconded by Joy Gerstein to accept the proposed legislation requiring all new applicants and registrants to obtain fingerprints. Motion carried with D. Todd Mahn, John McCulloch and James Reinhard voting in favor with no votes in opposition.

**333.325.1- Proposal is attachment J**

A motion was made by John McCulloch and seconded by James Reinhard to accept the proposed legislation. Motion carried with D. Todd Mahn, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition.

**333.325- Proposal is attachment K**

A motion was made by James Reinhard and seconded by D. Todd Mahn to accept the proposed legislation to add "possesses a high school diploma or equivalent thereof" for new applicants only. Motion carried with Martin Vernon and Joy Gerstein voting in favor. John McCulloch voted against the legislation.

**436.405(3) - Proposal is attachment L**

A motion was made by John McCulloch and seconded by Martin Vernon to take out single and leave annuity in legislation. Motion carried with D. Todd Mahn, James Reinhard and Joy Gerstein voting in favor with no votes in opposition.

**436.405(4) - Proposal is attachment L**

No vote was taken

**436.405(2) - Proposal is attachment M**

No vote was taken

**436.410- Proposal is attachment N**

A motion was made by James Reinhard and seconded by D. Todd Mahn to accept the proposed legislation to make it coincide with cemetery statute. Motion carried with John McCulloch, James Reinhard and Joy Gerstein voting in favor with no votes in opposition.

**Closed Meeting -4:49 p.m. on June 15, 2010**

Motion was made by James Reinhard and seconded by D. Todd Mahn to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 324.001.8 RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection (14) of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings. Motion carried with John McCulloch, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition.

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**Wednesday June 16, 2010- 9:00 a.m.**

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Gary Fraker, Chairman, at 9:00 a.m. on Wednesday, June 16, 2010 at the Division of Professional Registration, Jefferson City, MO.

**Roll Call**

**Board Members Present**

Gary Fraker, Chairman  
D. Todd Mahn, Vice-Chairman  
James Reinhard, Member  
Martin Vernon, Member  
Joy Gerstein, Public Member

**Board Members Absent**

John McCulloch

**Staff Present**

Becky Dunn, Executive Director  
Lori Hayes, Inspector  
Pamela Schnieders, Administrative Assistant  
Sharon Euler, Assistant Attorney General  
Connie Clarkston, Director of Budget

**Public Present**

Chris Moody  
Jim Moody  
Jen Jernagan  
Don Lakin  
Brad Speaks  
Jamille Fields, Intern with the Attorney General's Office  
James Burgen, Intern with the Attorney General's Office  
Kenny Shirley, Intern with the Department Legislation.

Sharon Euler introduced Jamille Fields and James Burgen, law students who are observing the process. They are both law students getting exposure to the practice of law and the different transcripts of proceedings.

**Legislative Proposals- Continued from previous days meeting**

The board reviewed further the proposed legislation.

**436.412- Proposal is attachment O**

A motion was made by James Reinhard and seconded by Martin Vernon to do nothing with the proposed legislation. Motion carried with Joy Gerstein voting in favor with no votes in opposition. D. Todd Mahn and John McCulloch were not present for the vote.

**Renewal Forms/Voluntary Self Audit Forms**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to send out participating auditing and renewals together. To educate through email and website, renewals due back by 10-31 and auditing report up through August 31, 2010 and due back by January 31<sup>st</sup>. Motion carried with James Reinhard and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.415 - Proposal is attachment P**

No vote was taken

**436.415- Proposal is attachment Q**

A motion was made by D. Todd Mahn and seconded by Martin Vernon to do nothing with the proposed legislation. Motion carried with Joy Gerstein voting in favor with no votes in opposition. John McCulloch and James Reinhard were absent from the vote.

**436.420 - Proposal is attachment R**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to do nothing with the proposed legislation. Motion carried with Joy Gerstein voting in favor with no votes in opposition. John McCulloch and James Reinhard were absent from the vote.

**436.425 - Proposal is attachment S**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to do nothing with the proposed legislation. Motion carried with Joy Gerstein voting in favor with no votes in opposition. John McCulloch and James Reinhard were absent from the vote.

**436.425- Proposal is attachment T**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to accept the proposed legislation. Motion carried with Joy Gerstein voting in favor. James Reinhard voted against the proposed legislation. John McCulloch was absent from the vote.

**436.430.2- Proposal is attachment U**

Withdrawn by Bill Stalter

**436.430.3 - Proposal is attachment U**

A motion was made by D. Todd Mahn and seconded by James Reinhard to accept the proposed legislation where the seller is to deposit 100% of trust. Motion carried with Joy Gerstein voting in favor. Martin Vernon voted against the proposed legislation. John McCulloch was absent from the vote.

**436.430.4 - Proposal is attachment U**

A motion was made by D. Todd Mahn and seconded by Martin Vernon to do nothing with the proposed legislation. Motion carried with James Reinhard and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.430.5 - Proposal is attachment U**

A motion was made by Martin Vernon and seconded by Joy Gerstein to do nothing with the proposed legislation. Motion carried with D. Todd Mahn and James Reinhard voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.430.10- Proposal is attachment U**

A motion was made by James Reinhard and seconded by D. Todd Mahn to accept the proposed legislation. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.435 - Proposal is attachment V**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to accept the proposed legislation. Motion carried with James Reinhard and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.435.6 - Proposal is attachment W**

A motion was made by D. Todd Mahn and seconded by James Reinhard to accept the proposed legislation. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.445 - Proposal is attachment X**

A motion was made by D. Todd Mahn and seconded by James Reinhard to do nothing with the proposed legislation. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.450 - Proposal is attachment Y**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to do nothing with the proposed legislation. Motion carried with James Reinhard, and Martin Vernon voting in favor with no votes in opposition. John McCulloch and Joy Gerstein were absent from the vote.

**436.450 - Proposal is attachment Z**

A motion was made by D. Todd Mahn and seconded by James Reinhard to not accept the proposed legislation. Motion carried with Martin Vernon voting in favor with no votes in opposition. John McCulloch and Joy Gerstein were absent from the vote.

**436.450 - Proposal is attachment AA**

A motion was made by D. Todd Mahn and seconded by James Reinhard to recommend changes that are consistent with changes made prior to annuities. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.455 - Proposal is attachment BB**

This has been withdrawn by Bill Stalter

**436.455 - Proposal is attachment CC**

A motion was made by D. Todd Mahn and seconded by James Reinhard to do nothing with the proposed legislation. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.455 - Proposal is attachment DD**

A motion was made by Martin Vernon and seconded by D. Todd Mahn for purchaser to be removed and be consistent with other trust account laws with SB 1. Motion carried with James Reinhard and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**John McCulloch's suggestion in lieu of joint accounts- Attachment EE**

No votes were taken

**436.456 - Proposal is attachment FF**

A motion was made by Martin Vernon and seconded by James Reinhard to accept the proposed legislation. Motion carried with D. Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.456 - Proposal is attachment GG**

A motion was made by Martin Vernon and seconded by Todd Mahn to accept changes per Sharon Euler's suggestions. Motion carried with James Reinhard, and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.457- Proposal is attachment HH**

This was withdrawn by D. Todd Mahn

**436.458- Proposal is attachment II**

A motion was made by James Reinhard and seconded by Martin Vernon to do nothing with the proposed legislation. Motion carried with D. Todd Mahn, and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.458.4 - Proposal is attachment JJ**

A motion was made by Martin Vernon and seconded by Joy Gerstein to do nothing with the proposed legislation. Motion carried with James Reinhard voting in favor with no votes in opposition. D. Todd Mahn and John McCulloch were absent from the vote.

**436.458 - Proposal is attachment KK**

A motion was made by Martin Vernon and seconded by James Reinhard to do nothing with the proposed legislation. Motion carried with D. Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.460- Proposal is attachment LL**

This was withdrawn by Mark Warren

**436.460 - Proposal is attachment MM**

A motion was made by James Reinhard and seconded by Martin Vernon to do nothing with the proposed legislation. Motion carried with D. Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the vote.

**436.485 - Proposal is attachment NN**

A motion was made by Martin Vernon and seconded by D. Todd Mahn to accept the proposed legislation. Motion carried with Joy Gerstein voting in favor. James Reinhard voted in opposition. John McCulloch was absent from the vote.

**Recess/Closed for lunch at 12:10 p.m. on June 16, 2010**

Motion was made by D. Todd Mahn and seconded by James Reinhard to recess for lunch. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was absent from the meeting.

### **Regulations**

The board reviewed regulation proposals, which are attached as OO. Motion was made by Martin Vernon and seconded by James Reinhard to approve the regulations as proposed. Motion carried with Gary Fraker voting in favor with no votes in opposition. D. Todd Mahn, John McCulloch and Joy Gerstein were absent from the vote.

Connie Clarkston gave an update on Rulemaking and drafting a legislative proposal for next year. The board will potentially ask for Legal Counsel and additional FTE.

### **Funeral Establishment/Preneed Seller/Provider/Funeral Director Agent/Agent-Licensure and Registration update (Lori Hayes)**

Lori Hayes gave an update on the registration of funeral establishments, preneed seller/providers, funeral director agents and agent licensure. This was for informational purposes. No vote was taken.

### **Funeral Director/Embalmer Renewals (Tabatha Lenzini)**

Tabatha Lenzini gave an update on renewals of Funeral Directors and Embalmers. There are 164 Funeral Directors and 80 Embalmers that have not renewed at this time. The percentage of renewals complete online was 51% with 48% completing paper renewals. This was for informational purposes. No vote was taken.

### **Preneed Seller Self Reporting Document**

Marvin Vernon requests that every seller complete a Self Reporting Document, for all Active Preneed Contracts. A motion was made by James Reinhard and seconded by D. Todd Mahn to pursue the participating self examination reports. Motion carried with Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was not present for the vote.

### **Preneed Provider and Preneed Seller Renewals & Annual Report for August 29, 2009 to August 30, 2010, due in the board office October 31.**

Motion was made by Martin Vernon and seconded by James Reinhard to request that all Preneed Provider and Preneed Seller Renewals and Annual Report completed for August 29, 2009 to August 30, 2010 be due in the board office no later than October 31, 2010. Motion carried with D. Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was not present for the vote.

### **Participating Examination Reports-Complete thru August 31, due back January 31.**

Motion was made by Martin Vernon and seconded by James Reinhard that the participating examination reports to be completed thru August 31, 2010 should be due back to the board office by January 31, 2011. Motion carried with D. Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. John McCulloch was not present for the vote.

## **Preneed Seller/Provider Annual Reporting Renewal Document**

The board reviewed the documents for the preneed seller/provider annual reporting renewal.

### **Closed Meeting**

A motion was made by Martin Vernon and seconded by James Reinhard to move into closed session pursuant to Section 610.021 Subsection (14) and 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 324.001.8 RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection (14) of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings. Motion carried with Joy Gerstein voting in favor with no votes in opposition. D. Todd Mahn and John McCulloch were absent for the entirety of the meeting.

### **Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business**

No discussion was held.

### **Other**

No discussion was held.

### **Adjournment**

A motion was made by Martin Vernon and seconded by Joy Gerstein to adjourn the meeting. Motion carried with Martin Vernon voting in favor with no votes in opposition. D. Todd Mahn and John McCulloch were absent for this portion of the meeting. The meeting adjourned at 2:41 p.m. on Wednesday, June 16, 2010.

Executive Director: Sandy Sebastian

Approved by the Board on: 12.7.11



333.041. 1. Each applicant for a license to practice funeral directing shall furnish evidence to establish to the satisfaction of the board that he or she is:

(1) At least eighteen years of age, and possesses a high school diploma or equivalent thereof;

(3) A person of good moral character.

2. Every person desiring to enter the profession of embalming dead human bodies within the state of Missouri and who is enrolled in an accredited institution of mortuary science education shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum for the accredited institution of mortuary science education. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma or equivalent thereof;

[(2) Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so; ]

(3) Is a person of good moral character;

(4) Has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education, or any successor organization recognized by the United States Department of Education, for funeral service education. If an applicant does not appear for the final examination before the board within five years from the date of his or her graduation from an accredited institution of mortuary science education, his or her registration as a student embalmer shall be automatically canceled;

(5) Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any

applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

(6) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. All transcripts and other records filed with the board shall become a part of the board files.

4. If the applicant does not appear for oral examination within the five years after his or her graduation from an accredited institution of mortuary science education, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. Upon establishment of his or her qualifications as specified by this section or section 333.042, the board shall issue to the applicant a license to practice funeral directing or embalming, as the case may require, and shall register the applicant as a duly licensed funeral director or a duly licensed embalmer. Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.

7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.

**Qualifications of applicants--examinations--licenses--board may waive requirements in certain cases.**

**333.041.**

4. If the applicant does not **[appear for oral examination] complete the application process** within **[the]** five years after his or her graduation from an accredited institution of mortuary science education, then he or she must file a new application and no fees paid previously shall apply toward the license fee.



**Application and examination fees for persons wanting to be funeral directors, apprenticeship requirements--examination content for applicants--apprenticeship duties--appearance before board--limited license only for cremation--exemptions from apprenticeship.**

333.042. 1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. Applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve **consecutive** months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be canceled.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application and examination fee and successfully complete the Missouri law examination. He or she shall be exempt from the twelve **consecutive** month apprenticeship and the practical examination before the board. If a person has a limited license issued pursuant to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department of Education for funeral service education, or has successfully completed a course of study in funeral directing offered by a college accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve **consecutive** month apprenticeship required by subsection 1 of this section.

333.051. 1. Any nonresident individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his qualifications as is required by the board. No license shall be granted to a nonresident applicant [except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri] unless the law of the state of the applicant's residence authorizes the granting of licenses to practice funeral directing or embalming in such state to persons licensed as funeral directors under the law of the state of Missouri.



**No funeral establishment to be operated by unlicensed person--license requirements, application procedure--license may be suspended or revoked or not renewed.**

333.061. 1. No funeral establishment shall be operated in this state unless the owner or operator thereof has a license issued by the board.

2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

(1) That the establishment is under the general management and the supervision of a duly licensed funeral director;

(2) That all embalming performed therein is performed by or under the direct supervision of a duly licensed embalmer;

(3) That any place in the funeral establishment where embalming is conducted contains a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and disposal facilities including running water, and complies with the sanitary standard prescribed by the department of health and senior services for the prevention of the spread of contagious, infectious or communicable diseases;

(4) Each funeral establishment shall have available **[in the preparation or embalming room]** a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book; and

(5) The establishment complies with all applicable state, county or municipal zoning ordinances and regulations.

3. The board shall grant or deny each application for a license pursuant to this section within thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the application, provided the request for an extension is received by the board prior to the expiration of the thirty-day application or extension period.

4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. No new license shall be issued to the owner of a funeral establishment or to any corporation controlled by such owner for three years after the revocation of the license of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection the procedure for notice and hearing as prescribed by section 333.121 shall be followed.

**[License to be recorded, displayed.]**

333.091. Each establishment, funeral director or embalmer receiving a license under this chapter shall have recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices. All licenses or registrations, or duplicates thereof, issued pursuant to this chapter shall be displayed at each place of business. ]

**Board members--qualifications--terms--vacancies.**

333.151. 1. The state board of embalmers and funeral directors shall consist of ten members, including one voting public member appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to sell preneed, a license to practice embalming or a license to practice funeral directing in this state or [both] any said licenses and shall have been actively engaged in the practice of preneed selling, embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than five members of the board shall be of the same political party. The nonpublic members shall be appointed by the governor, with the advice and consent of the senate, one from each of the state's congressional districts be of good moral character and submit [an audited] financial statements of the~~[ir]~~ funeral establishment or preneed seller set out on their license. Said financial statements must be [by an independent auditor] for the previous five years~~[. This audited financial statement must]~~ and include all at-need and preneed business.



**Applicability of law.**

333.310. The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator licensed pursuant to R.S.Mo. Section 214.275 who sells contracts or arrangements for funeral merchandise or services for which payments received by, or on behalf of, the purchaser are deposited either to an escrow account, or a preneed trust, governed by an agreement approved by the Office of Endowed Care Cemeteries [required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo;], provided that a cemetery operator shall comply with sections 333.310 to 333.340 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

**Registration as a preneed agent required--application procedure--renewal of registration--expiration of registration.**

333.315 (6) page 5 333.320 2.(3) page 7

Background checks conducted by the Board shall include.

New language

**Fingerprints upon initial application with the Board**

Title: All applicants for licensure or registration with the Board shall provide proof of submitting fingerprints to the Missouri State Highway Patrol.

Purpose: This language describes the requirement of all applicants for licensure or registration with the Board to provide proof of submitting his or her fingerprints to the Missouri State Highway Patrol or the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and a Federal Bureau of Investigation fingerprint background check.

(1) All applicants for licensure or registration with the Missouri Board of Embalmers and Funeral Directors shall, upon application with the Board after **(DATE)**, provide proof of having submitted fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and a Federal Bureau of Investigation fingerprint background check.

(2) Any fees due to fingerprint background checks shall be paid by the applicant directly to the Missouri State Highway Patrol or its approved vendor.

(3) Applicants seeking renewal of a license or registration with the Board shall be exempt from this requirement.

Authority: 333.031, 333.041, 333.042, 333.051, 333.061, 333.111, 333.315, 333.320, 333.325, 333.340, and 436.520.

333.325. 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older;

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed those portions of the Missouri law examination [as] designated by the board by regulation or rule;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of ]; and

(6) Successfully completed any internship or training that the board may require through regulations or rules.



Hayes, Lori

**From:** John McCulloch [johnmcculloch@earthlink.net]

**Sent:** May 21, 2010 3:51 PM

**To:** PR.Embalm

**Subject:** Re:

Please consider giving preneed agents the same apprenticeship period as funeral directors.

I have submitted language for a rule change: however, I realize that it may not be approved so we may have to change the law.

**Preneed Agent Apprentice -an individual who is being trained as an agent under the supervision of a Missouri licensed preneed seller. Preneed agent apprenticeship is valid for a period of twelve 12 consecutive months of the twenty four (24) consecutive month application. Preneed agent application is valid for a period of twenty four (24) consecutive months. The apprenticeship ends after the twelve (12) consecutive months of apprenticeship of the 12 month application. The application becomes null and void after twelve (12) months. To serve as an apprentice preneed agent, the applicant shall file with the Board a completed preneed agent application on the form prescribed by the board and pay all applicable fees. Application forms and a list of fees can be obtained from the Board office or on the Board's website at <http://pr.mo.gov/embalmers.asp>.**

**Upon registration and payment in full of all applicable fees, the board shall issue the apprentice agent applicant a preneed agent registration. This registration authorizes the apprentice preneed agent to engage in the practice of preneed agent under the supervision of a Missouri licensed preneed seller for a period of twelve (12) consecutive months. The preneed agent registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each licensed preneed seller location where the apprentice is working. An applicant shall have twenty four (24) months to successfully complete the requirements for registration or the application for licensure shall be null and void. A new application and applicable fees will be required.**

**The preneed agent apprentice registration authorizes the registrant to engage in the practice of preneed agent only during the twelve (12) consecutive month period of apprenticeship.**



**Once the requirements of the apprenticeship is completed, the preneed agent apprentice registration shall become null and void. Any Missouri licensed seller Who allows a preneed agent apprentice who has completed his/her apprenticeship to practice before that apprentice is fully registered shall be**

**subject to discipline of misconduct under section 333.330.**

**Each registered preneed agent apprentice shall provide to the Board, on the application prescribed by the board, the name(s), location(s), and license numbers(s) of each preneed seller where they are serving as an apprentice. The preneed agent apprenticeship shall be served under the supervision of a Missouri licensed preneed seller. If the preneed agent apprentice changes preneed sellers during the course of the apprenticeship, the apprentice shall notify the board, on the form prescribed by the board, of the name(s), location(s) and preneed seller (s) license number of the new apprenticeship location within 10 days after the change has been made.**

**Successful completion of the preneed agent apprenticeship shall consist of the following:**

**a) completed service as an preneed agent apprentice for a period consisting of twelve (12) consecutive months, or completion of the Missouri Law examination as designated by the Board, whichever comes first, at a Missouri licensed preneed seller location that is not under disciplinary probation by the Board; and b) Filing with the board a notarized affidavit(s) signed by the apprentice agent and his/her supervisor(s) that he/she has worked for under the supervision of a Missouri licensed preneed seller.**

**The preneed agent application will remain in active status for twenty four (24) months and the apprentice agent will not be allowed to practice after the 6 month apprenticeship period, or has successfully completed the Missouri Law examination as designated by the Board, whatever comes first.**

**After the successful completion of these requirements, a preneed agent registration shall be issued to the preneed agent registrant.**

*Becky Dunn, Executive Director*  
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**Registration as a preneed agent required--application procedure--renewal of registration-expiration of registration.**

333.325. 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of, a seller unless registered with the board as a preneed agent except for individuals who are licensed as funeral directors under this chapter. The board shall maintain a registry of all preneed agents registered with the board. The registry shall be deemed an open record and made available on the board's web site.

2. An applicant for a preneed agent registration shall be an individual who shall:

(1) File an application on a form established by the board and pay an application fee in an amount established by the board by rule which shall not exceed fifty percent of the application fee established by the board under this chapter for a funeral director license;

(2) Be eighteen years of age or older; **and possesses a high school diploma or equivalent thereof;**

(3) Be otherwise eligible for registration under section 333.330;

(4) Have successfully passed the Missouri law examination as designated by the board;

(5) Provide the name and address of each seller for whom the applicant is authorized to sell, negotiate, or solicit the sale of preneed contracts for, or on behalf of.

**Definitions.**

436.405. 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

(3) "Insurance-funded preneed contract", a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or [single annuity] annuity contract that is purchased within one year of the issuance of the contract;

(4) "Joint account-funded preneed contract", a preneed contract which designates that payments for the preneed contract made by or on behalf of the purchaser will be deposited and maintained in a joint account in the names of the purchaser and seller, or in the name of the seller but for the benefit of the purchaser, as provided in this chapter;



**Definitions.**

**436.405.** 1. As used in sections 436.400 to 436.520, unless the context otherwise requires, the following terms shall mean:

...

(2) "Guaranteed contract", a preneed contract in which the seller **[promises, assures, or guarantees to the purchaser that all or any portion of the costs for the disposition, services, facilities, or merchandise identified in a preneed contract will be no greater than the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted]** agrees to provide, upon the death of the funeral recipient, services, facilities, or merchandise which are specifically identified on a preneed contract as guaranteed in exchange for the funds available in the trust account, insurance policy, annuity or joint account, as long as the buyer has fully funded the trust account, insurance policy, annuity or joint account, so there will be no additional cost to the funeral recipient's family or estate for the cost of those services, facilities, or merchandise except those items listed as non-guaranteed cash advance items;

(3) "Insurance-funded preneed contract", a preneed contract which is designated to be funded by payments or proceeds from an insurance policy or **[single premium]** annuity contract;

...

(6) "Nonguaranteed contract", a preneed contract in which the seller **[does not promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities, service, or merchandise identified in a preneed contract will be limited to the amount designated in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited or restricted]** agrees to apply the funds available in the trust account, insurance policy, annuity or joint account, to the total funeral price at the time the funeral is provided. If the total funeral price, at the time the funeral is provided, is greater than the funds available, the funeral recipient's family or estate is responsible for paying the difference;



436.405

(3) 'Insurance-funded preneed contract", a preneed contract which designated to be funded by payments or proceeds from an insurance policy or **[single] flexible** premium annuity contract;

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or multiple premium annuity

436.410. The provisions of sections 436.400 to 436.520 shall not apply to any contract or other arrangement sold by a cemetery operator licensed pursuant to R.S.Mo. Section 214.275 for which payments received by or on behalf of the purchaser are deposited either to an escrow account, or a preneed trust, governed by an agreement approved by the Office of Endowed Care Cemeteries [required to be placed in an endowed care fund or for which a deposit into a segregated account is required under chapter 214, RSMo:], provided that a cemetery operator shall comply with sections 436.400 to 436.520 if the contract or arrangement sold by the operator includes services that may only be provided by a licensed funeral director or embalmer.

Violations, disciplinary actions authorized--governing law for contracts.

436.412. Each preneed contract made before August 28, 2009, and all **reporting requirements**, payments and disbursements under such contract shall continue to be governed by this chapter as the chapter existed at the time the contract was made. Any licensee or registrant of the board may be disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable statute of limitations. In addition, the provisions of section 436.031, as it existed on August 27, 2009, shall continue to govern disbursements to the seller from the trust and payment of trust expenses. Joint accounts in existence as of August 27, 2009, shall continue to be governed by the provisions of section 436.053, as that section existed on August 27, 2009.

(L. 2009 S.B. 1)

**Provision of certain services required by provider--seller's duties.**

**436.415.** 1. Except as otherwise provided in sections 436.400 to 436.520, the provider designated in a preneed contract shall be obligated to provide final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract.

2. The seller designated in a preneed contract shall be obligated to collect and properly deposit and disburse all **trust and joint account** payments made by, or on behalf of, a purchaser of a preneed contract and ensure that its statutory and contractual duties are met, in compliance with sections 436.400 to 436.520. **In an insurance funded preneed contract, all premium payments shall be paid directly to the life insurance company from the purchaser and all disbursements from the insurance policy shall be made by the insurance company.**

Provision of certain services required by provider--seller's duties.

436.415. 1. Except as otherwise provided in sections 436.400 to 436.520, the provider designated in a preneed contract shall be obligated to provide final disposition, funeral or burial services and facilities, and funeral merchandise as described in the preneed contract. **In the case of a funeral establishment with multiple licensed facilities under common ownership, the funeral establishment shall designate which of its licensed facilities shall be the designated provider on each of its preneed contracts that will be obligated under this section and shall maintain a provider's license for that that designated licensed facility and maintain all required records at that facility regardless of where the actual final disposition it to take place pursuant to the contract.**

2. The seller designated in a preneed contract shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract and ensure that its statutorily and contractual duties are met, in compliance with sections 436.400 to 436.520. **Any person or entity that executed preneed contracts as a seller prior to August 28, 2009, but who is not entering into contracts as a seller after August 28, 2009, need not become licensed as seller under this chapter, however, such person or entity must continue to file annual reports as required by this chapter, be subject to the audit and enforcement provisions of this chapter and be otherwise governed by this chapter as the chapter existed at the time the contract was made.**

(L. 2009 S.B. 1)



**Written contract required, contents--notification to board of provider authorization--seller to provide copy of contract to board upon request.**

**436.420. 1.** No person shall be designated as a provider in a preneed contract unless the provider has a written contractual agreement with the seller. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.400 to 436.520. No contract is required if the seller and provider are the same legal entity.

2. The written agreement required by this section shall include:

(1) Written consent from the provider authorizing the seller to designate or obligate the provider under a preneed contract;

(2) Procedures for tracking **trust or joint account** preneed contract funds or payments received by the provider and for remitting such **trust or joint account** funds or payments to the seller, including the time period authorized by the seller for the remittance of **trust and joint account** funds and payments; and

**Contract form, requirements--voidability of contract--waiver of contract benefits for public assistance recipients.**

**436.425.** 1. All preneed contracts shall be **[sequentially]** numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

(1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;

(2) Identify the **[name, address, phone and]** license number of the provider and the seller;

**Contract form, requirements--voidability of contract--waiver of contract benefits for public assistance recipients.**

436.425. 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

(14) Include **[any applicable]** consumer disclosures required by the board by rule that are applicable to the seller's preneed contract form; and

2. A preneed contract shall be voidable and unenforceable at the option of the purchaser, or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that the contract is not in material compliance with this section or not issued by a seller licensed under chapter 333, RSMo, or if the provider has not consented to serve as provider at the time the contract was executed. Upon exercising the option by written notice to the seller and provider, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller, trustee, or other payee thereof.



### Trust-funded preneed contract requirements.

436.430. 1. A trust-funded guaranteed preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller must deposit all payments received on a preneed contract into the designated preneed trust within sixty days of receipt of the funds by the seller, the preneed sales agent or designee. A seller may not require the consumer to pay any fees or other charges [except as authorized] prohibited by the provisions of chapter 333, RSMo, and this chapter and regulations promulgated thereunder, or [other state or] federal law.

3. A seller may request the trustee to distribute to the seller an amount up to the first five percent of the total amount of any preneed contract as an origination fee. The seller may make this request at any time after [five percent of the total amount of the preneed contract has] such funds have been deposited into the trust. The trustee shall make this distribution to the seller within fifteen days of the receipt of the request.

4. In addition to the origination fee, the trustee may distribute to the seller an amount up to ten percent of the face value of the good and services guaranteed [contract] on a preneed contract at any time after the consumer payment has been deposited into the trust. The seller may make written request for this distribution and the trustee shall make this distribution to the seller within fifteen days of the receipt of the request or as may be provided in any written agreement between the seller and the trustee.

5. The trustee of a preneed trust shall be a state- or federally-chartered financial institution authorized to exercise trust powers in Missouri, or other financial institution having the power to provide trust services that has been approved by the Board. The trustee shall accept all deposits made to it for a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, under sections 436.400 to 436.520.

10. The seller and provider of a trust-funded guaranteed preneed contract shall be entitled to all income, including, but not limited to, interest, dividends, capital gains, and losses generated by the investment of preneed trust property regarding such contract as stipulated in the contract between the seller and provider, upon performance of the contract. Income of the trust, excluding expenses allowed under this subsection, shall accrue through the life of the trust, except in instances when a contract is cancelled. The trustee of the trust may distribute market value of all income, net of losses, to the seller upon, but not before, the final disposition of the beneficiary and provision of the funeral and burial services and facilities, and merchandise to, or for, the benefit of the beneficiary. This subsection shall apply to trusts established on or after August 28, 2009.

**Compliance of contracts entered into prior to effective date--investment of trust property and assets--loans against assets prohibited.**

436.435. 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification. The trustee shall set out such determination in writing, to be included in the books and records that are made available to the Board and its agents and designees.



**Compliance of contracts entered into prior to effective date--investment of trust property and assets--loans against assets prohibited.**

436.435. 1. To the extent that any provisions in this chapter which come into effect on August 28, 2009, apply to trusts governed under this chapter which are in existence on August 28, 2009, such trusts shall be in compliance with this chapter no later than July 1, 2010.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof and shall only be invested and reinvested in investments which have reasonable potential for growth or producing income. Funds in, or belonging to, a preneed trust shall not be invested in any term life insurance product.

3. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

4. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purpose of the trust is better served without diversification.

5. In investing and managing trust assets, a trustee shall consider the following as are relevant to the trust:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio;
- (5) The expected total return from income and the appreciation of capital;
- (6) Needs for liquidity, regularity of income, and preservation or appreciation of capital.

6. No seller, provider, or preneed agent shall procure or accept a loan against any investment or asset of or belonging to a preneed trust. As of **[August 29, 2009]** **August 28, 2009**, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

(L. 2009 S.B. 1)

**Trustee not to make decisions, when.**

436.445. A trustee of any preneed trust, including trusts established before August 28, 2009, shall not after August 28, 2009, ~~[make any decisions to invest any trust fund]~~ that contracts with any of the following to serve as an investment advisor for the trust shall make a written disclosure in a format as prescribed by the Board:

- (1) The spouse of the trust~~[ee]~~ officer assigned to the trust;
- (2) The descendants, siblings, parents, or spouses of a seller or an officer, manager, director or employee of a seller, provider, or preneed agent;
- (3) Agents or attorneys of a trustee, seller, or provider; or
- (4) A corporation or other person or enterprise in which the trustee, seller, or provider owns a controlling interest or has an interest that might affect the trustee's judgment.



**Insurance-funded preneed contract requirements.**

**436.450.** 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the **initial premium[s]** on the insurance policy as assessed or required by the insurer as **the initial premium payment[s]** for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

...

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or **[single premium]** annuity sold with a preneed contract; provided, however, the provisions of this act\* shall not apply to **[single premium]** annuities or insurance policies regulated by chapters 374, 375, and 376, RSMo, used to fund preneed funeral agreements, contracts, or programs.

...

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the **[beneficiary or]** assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid **[to the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of Missouri]** to the beneficiary named in the life insurance policy. **SEE NEW SECTION FOR HANDLING OF PUBLIC ASSISTANCE CASES.**

**NEW SECTION: Assignment Requirements for Insurance and Annuities Funding Irrevocable Preneed Contracts.**

**a. On all life insurance policies or annuity contracts used to fund formal burial arrangements as described in sections 436.405 et. al., for individuals who are Medicaid recipients or applicants, the life insurance policy or annuity must have the Estate Recovery Unit designated as the beneficiary of the life insurance policy or annuity. The Department of**

Human Services is required to examine all life insurance policies and annuities to make sure this designation has taken place and if it has not the Department of Human Services is required to provide notice to the applicant or recipient of the requirement to make the Estate Recovery Unit the beneficiary of the life insurance policy or annuity.

b. This section shall:

1. Be effective January 1, 2011 for all life insurance policies and annuities issued on or after January 1, 2011; and
2. Be effective on the renewal date of qualification for all life insurance policies and annuities issued before January 1, 2011, as they are reviewed annually; and

c. Failure of the Medicaid recipient or applicant to name the Estate Recovery Unit as the beneficiary of any such life insurance policy or annuity shall disqualify the life insurance policy or annuity as an exempt asset of the recipient or applicant unless the recipient or applicant can show compliance within 20 days.



Insurance-funded preneed contract requirements.

436.450. 1. An insurance-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser of an insurance-funded preneed contract any amount in excess of what is required to pay the premiums on the insurance policy as assessed or required by the insurer as premium payments for the insurance policy except for any amount required or authorized by this chapter or by rule. A seller shall not receive or collect any administrative or other fee from the purchaser for or in connection with an insurance-funded preneed contract, other than those fees or amounts assessed by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any existing preneed contract as collateral or security pledged for a loan or take preneed funds of any existing preneed contract as a loan for any purpose other than as authorized by this chapter.

3. Payments collected by or on behalf of a seller for an insurance-funded preneed contract shall be promptly remitted to the insurer or the insurer's designee as required by the insurer; provided that payments shall not be retained or held by the seller or preneed agent for more than thirty days from the date of receipt.

4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan against any insurance contract used to fund a preneed contract.

5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance or single premium annuity sold with a preneed contract; provided, however, the provisions of this act\* shall not apply to single premium annuities or insurance policies regulated by chapters 374, 375, and 376, RSMo, used to fund preneed funeral agreements, contracts, or programs.

6. This section shall apply to all preneed contracts including those entered into before August 28, 2009.

7. For any insurance-funded preneed contract sold after August 28, 2009, the following shall apply:

(1) The purchaser or beneficiary shall be the owner of the insurance policy purchased to fund a preneed contract; and

(2) An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is named as the beneficiary or assignee of the life insurance policy funding the contract.

8. If the proceeds of the life insurance policy exceed the actual cost of the goods and services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to **the purchaser [the estate of the beneficiary]**, or, **if the contract was irrevocable [beneficiary received public assistance]**, to the state of Missouri.

(L. 2009 S.B. 1)

\*"This act" (S.B. 1, 2009) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

436.450. 1. An insurance-funded preneed contract shall comply  
2 with sections 436.400 to 436.520 and the specific requirements of this  
3 section.

4 2. A seller, provider, or any preneed agent shall not receive or  
5 collect from the purchaser of an insurance-funded preneed contract,  
6 any amount in excess of what is required to pay the premiums on the  
7 insurance policy as assessed or required by the insurer as premium  
8 payments for the insurance policy except for any amount required or  
9 authorized by this chapter or by rule. A seller shall not receive or  
10 collect any administrative or other fee from the purchaser for or in  
11 connection with an insurance-funded preneed contract, other than  
12 those fees or amounts assessed by the insurer. As of August 29, 2009,  
13 no preneed seller, provider, or agent shall use any existing preneed  
14 contract as collateral or security pledged for a loan or take preneed  
15 funds of any existing preneed contract as a loan for any purpose other  
16 than as authorized by this chapter.

17 3. Payments collected by or on behalf of a seller for an  
18 insurance-funded preneed contract shall be promptly remitted to the  
19 insurer or the insurer's designee as required by the insurer; provided  
20 that payments shall not be retained or held by the seller or preneed  
21 agent for more than thirty days from the date of receipt.

22 4. It is unlawful for a seller, provider, or preneed agent to  
23 procure or accept a loan against any insurance contract used to fund  
24 a preneed contract.

25 5. Laws regulating insurance shall not apply to preneed  
26 contracts, but shall apply to any insurance **[or]** single premium **or flexible pay**  
**annuity**  
27 sold with a preneed contract; provided, however, the provisions of this  
28 act shall not apply to single premium **or flexible pay annuities** or insurance policies  
29 regulated by chapters 374, 375, and 376, RSMo, used to fund preneed  
30 funeral agreements, contracts, or programs.

31 6. This section shall apply to all preneed contracts including  
32 those entered into before August 28, 2009.

33 7. For any insurance-funded preneed contract sold after August  
34 28, 2009, the following shall apply:

35 (1) The purchaser **[or beneficiary]** shall be the owner of the  
36 insurance policy purchased to fund a preneed contract; and  
37 (2) An insurance-funded preneed contract shall be valid and  
38 enforceable only if the seller or provider is named as the beneficiary  
39 or assignee of the life insurance policy funding the contract.

40 8. If the proceeds of the life insurance policy exceed the actual  
41 cost of the goods and services provided pursuant to the nonguaranteed  
42 preneed contract, any overage shall be paid to the estate of the  
43 beneficiary, or, if the beneficiary received public assistance, to the  
44 state of Missouri.



**Joint account-funded preneed contract requirements.**

436.455. 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate. If the establishment of a joint account pursuant to this section is found to violate the policies of the financial institution, the seller may establish a depository account for the benefit of purchaser, with the seller as owner of the account. There shall be a separate [joint] account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid from the account upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.

3. All consideration paid by the purchaser under a [joint] depository account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

Joint account-funded preneed contract requirements.

436.455. 1. A joint account-funded preneed contract shall comply with sections 436.400 to 436.520 and the specific requirements of this section.

2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed contract shall be deposited with a financial institution chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the seller and purchaser, beneficiary or party holding power of attorney over the beneficiary's estate. There shall be a separate joint account established for each preneed contract sold or arranged under this section. Funds shall only be withdrawn **[or paid]** from the account **in accordance with the provisions of this chapter. [upon the signatures of both the seller and the purchaser or under a pay-on-death designation or as required to pay reasonable expenses of administering the account.]**

3. All consideration paid by the purchaser under a joint account-funded contract shall be deposited into a joint account as authorized by this section within ten days of receipt of payment by the seller.

4. The financial institution shall hold, invest, and reinvest funds deposited under this section in other accounts offered to depositors by the financial institutions as provided in the written agreement of the purchaser and the seller, provided the financial institution shall not invest or reinvest any funds deposited under this section in term life insurance or any investment that does not reasonably have the potential to gain income or increase in value.

5. Income generated by preneed funds deposited under this section shall be used to pay the reasonable expenses of administering the account as charged by the financial institution and the balance of the income shall be distributed or reinvested upon fulfillment of the contract, cancellation or transfer pursuant to the provisions of this chapter.

6. Within **[fifteen] sixty** days after a provider and **[a witness] and the person authorized to make arrangements for the beneficiary** certify\* **[to the financial institution]** in writing that the provider has furnished the final disposition, funeral, and burial services and facilities, and merchandise as required by the preneed contract, or has provided alternative funeral benefits for the beneficiary under special arrangements made with the purchaser, the **seller shall pay to the provider all sums called for under the contract. [financial institution shall distribute the deposited funds to the seller if the certification has been approved by the purchaser. The seller shall pay the provider within ten days of receipt of funds.] After receiving such certification, seller is authorized to withdraw all funds from the joint account.**

7. Any seller, provider, or preneed agent shall not procure or accept a loan against any investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take preneed funds of any existing preneed contract as a loan or for any purpose other than as authorized by this chapter.

(L. 2009 S.B. 1)

\*Word "certifies" appears in original rolls.



436.455. 1. A joint account-funded preneed contract shall comply  
2 with sections 436.400 to 436.520 and the specific requirements of this  
3 section.  
4 2. In lieu of a trust-funded or insurance-funded preneed contract,  
5 the seller and the purchaser may agree in writing that all funds paid  
6 by the purchaser or beneficiary for the preneed contract shall be  
7 deposited with a financial institution chartered and regulated by the  
8 federal or state government authorized to do business in Missouri in an  
9 account in the **[joint] of and** names **[and] of and** under the **[ joint]** control of **[the**  
**seller and]**  
10 purchaser, **with a payable on death to the seller as beneficiary clause.[ beneficiary**  
**or party holding power of attorney over the**  
**11 beneficiary's estate.]** There shall be a separate **[joint]** account established  
12 for each preneed contract sold or arranged under this section. Funds  
13 shall only be withdrawn or paid from the account upon the signature**[s]**  
14 of **[both the seller] [and]** the purchaser or under a pay-on-death  
15 designation or as required to pay reasonable expenses of administering  
16 the account.  
17 3. All consideration paid by the purchaser under a **[joint]** account  
18 funded contract shall be deposited into **[a joint] an** account as authorized  
19 by this section within ten days of receipt of payment by the seller.  
20 4. The financial institution shall hold, invest, and reinvest funds  
21 deposited under this section in other accounts offered to depositors by  
22 the financial institutions as provided in the written agreement of the  
23 purchaser and the seller, provided the financial institution shall not  
24 invest or reinvest any funds deposited under this section in term life  
25 insurance or any investment that does not reasonably have the  
26 potential to gain income or increase in value.  
27 5. Income generated by preneed funds deposited under this  
28 section shall be used to pay **[the] taxes and** reasonable expenses of administering  
29 the account as charged by the financial institution and the balance of  
30 the income shall be distributed or reinvested upon fulfillment of the  
31 contract, cancellation or transfer pursuant to the provisions of this  
32 chapter.  
33 6. Within fifteen days after a provider and a witness certifies to  
34 the financial institution in writing that the provider has furnished the  
35 final disposition, funeral, and burial services and facilities, and  
36 merchandise as required by the preneed contract, or has provided  
37 alternative funeral benefits for the beneficiary under special  
38 arrangements made with the purchaser, the financial institution shall  
39 distribute the deposited funds to the seller **as beneficiary of the payable on death**  
**clause. [if the certification has been**  
**40 approved by the purchaser.]** The seller shall pay the provider within  
41 ten days of receipt of funds.  
42 7. Any seller, provider, or preneed agent shall not procure or  
43 accept a loan against any investment, or asset of, or belonging to a joint  
44 account. As of August 28, 2009, it shall be prohibited to use any  
45 existing preneed contract as collateral or security pledged for a loan,  
46 or take preneed funds of any existing preneed contract as a loan or for  
47 any purpose other than as authorized by this chapter.



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**FAX COVER SHEET**

DATE: May 21, 2010

TO: Becky Dunn

COMPANY: MO State Board of Embalmers & Funeral Directors

FROM: Kimberley Buxton

FAX: 573-751-1155

OFFICE: 573-751-0813

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET) 12  
*IF YOU DO NOT RECEIVE ALL THE PAGES PLEASE CALL US AS SOON AS  
POSSIBLE*

Please find attached the information for Payable On Death Accounts.

It is my suggestion that we change the name of joint accounts to Payable On Death  
Accounts (POD). Please see attachment.

Thank you.

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## PAYABLE ON DEATH ACCOUNTS

*General Concepts*

The purpose of a payable on death ("POD") account is to designate the recipient of funds in an account or certificate of deposit after the death of the account owner.<sup>7</sup> As long as the original owner or owners are alive, the POD beneficiary has no rights in the funds in the account. The account owner has full ownership, benefit and control of the account as long as the account owner is alive. Only after the death of the account owner does the POD beneficiary have rights to the money in the account. A pay on death account may be used for joint accounts as well as individual accounts. The money will not be payable to the death beneficiary until the death of all of the original joint owners.

A POD account is not available for corporations, trusts, partnerships or other entities because such entities do not die; however, entities may be designated as POD beneficiaries.

A POD designation takes priority over a will or trust of the customer. Money in a POD account is paid to the designated death beneficiary, without regard to the terms of the customer's trust or will.

If a conservator takes over management of an account with a POD designation, and if the incapacitated person dies, the money goes to the POD beneficiaries and the conservator has no further power over the money in the account.

There are two separate Missouri laws permitting establishment of POD bank accounts. The first, which is very simple and easy to understand, is Section 362.471. The second set of laws is in Chapter 461 of the Missouri statutes and these provisions are extremely long and complicated. The discussion of POD accounts in this chapter is limited to the simplified provisions in Section 362.471. Any bank that desires to use the more complicated provisions of Chapter 461 should confer with its attorney to determine what is necessary to comply with that law and establish operating procedures accordingly. In order to assure that POD accounts are governed by the more simple law, it is recommended that the bank's account agreement, or POD form, specify that the accounts are subject to Section 362.471. Savings and loans have a similar law at Section 369.136.

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<sup>7</sup> The term transfer on death ("TOD") is also sometimes used. In this booklet the term POD is used for any transfer on death designation. Pay on death or transfer on death provisions are also possible for automobiles, stocks, bonds, real estate and most other property. The customer's attorney can help the customer use POD or TOD designations for such other types of property.

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REARRANGED SERVICE***Comparison with other Accounts or Death Transfer Methods***

There are various methods of passing funds at death, and they are not necessarily interchangeable. Each has its own benefits and drawbacks. The following is a comparison of POD accounts with other available methods of passing funds on death.

***Joint Tenancy with Right of Survivorship:*** The only common characteristic of a joint tenancy with rights of survivorship and a POD account is that the money passes on death to the joint owner or the POD beneficiary. The major difference is that during the lifetime of the original owner the POD beneficiary does not have the right to withdraw money from the account while a joint tenant will have the right to withdraw funds. Also, in a joint tenancy the creditors of any joint tenant may be able to make a claim against the account for debts of that joint owner, and in a POD account the creditors of the POD beneficiary have no claim on the account as long as the account owner is alive.

The following examples illustrate these differences. Assume Tony has an account in First Friendly Bank. Tony would like the money to go to Joan when Tony dies, but Tony does not want Joan to have any rights in the money while Tony is alive. Tony could put the money into a joint tenancy with right of survivorship with Joan being the other joint tenant. Or Tony could name Joan as POD beneficiary of his individual account. Under either choice, Joan gets the money when Tony dies. But, if a joint tenancy with right of survivorship account is used, the following could also happen:

1. While both Tony and Joan are alive, creditors of Joan file a garnishment against the joint account because Joan is the joint owner. If Joan did not put any money into the account, the creditors will probably lose on the garnishment and get nothing from the account. But, Tony may incur substantial attorney fees in defending Tony's money from Joan's creditors. This would not happen with a POD account. The POD account would be carried only in the name of Tony and, therefore, there would be no question that the funds are not subject to the claims of Joan's creditors.
2. ~~Joan withdraws all of the money from the joint account and spends it. This could not happen with a POD account because the POD beneficiary has no access to the money while the account owner is alive.~~
3. Tony dies and Joan claims the money in the account as the surviving joint owner. The law permits Tony's heirs to contest Joan's rights to the money. The most usual claim by heirs is that Joan was put on the account only as an accommodation to help Tony manage Tony's money, but with no intention that Joan actually get the money after death. Joan may have to prove in court that Tony actually intended Joan to have the money on Tony's death, again with the likelihood of significant attorney fees. POD accounts avoid this problem; it is absolutely clear that upon the death of the owner, the funds pass to the designated death beneficiary.

The benefits of using a POD account over a joint account when the original owner only intends the other person to have rights in the money after the death of the original owner include the following:

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1. The other party (the death beneficiary) does not have any rights to take the money out of the account during the life of the original owner as may be the case with a joint account.<sup>\*</sup>
2. A POD account can be used much more easily to pass money to a minor than can a joint account. As will be discussed below, a POD designation can appoint a custodian to manage the funds if the death beneficiary is still a minor when the owner dies. If a minor is named as a joint tenant with right of survivorship, it may be necessary to go to court to have a conservator appointed. This will cost the customer money for attorneys, and may result in family discord if various family members argue about who should be the conservator.

**Trusts and Wills:** A will, a trust and a POD account permit money to pass on the death of the owner. However, a will or a trust is much more expensive to create since an attorney usually must be hired to write the trust document. And, if the customer decides to change the death beneficiary under a will or trust, it will be necessary to hire a lawyer again to change the will or trust. With a POD account the customer can easily change the death beneficiary by notifying the bank to make the change. Of course, there may be times when a will or trust is necessary, such as to do a full estate plan or where there are complicated beneficiary designations. But when the customer is primarily interested in passing money in a single account, and there are a limited number of beneficiaries, a POD account may be superior to a will or trust in terms of the time and money necessary to set up the structure. Special consideration should be given to survivorship rights in selecting the proper structure. In the absence of an LDPS designation (see "Death of Beneficiary Before Owner" below) the money in the POD account goes to the named death beneficiaries, or whichever of them survive the account owner. Therefore, if there are three death beneficiaries, and one dies before the account owner, the money will go to the remaining two. If the customer wants the heirs of a deceased POD beneficiary to get the interests of the deceased POD beneficiary, then a will or trust is probably a better structure for the customer unless the bank is willing to take on the responsibilities for managing an LDPS designation. A POD account designation will take precedence over a will or trust of the customer and money in a POD account will go to the beneficiaries named in the POD account regardless of the terms of the will or trust so the customer should not assume that the heirs will be taken care of through the will or trust. Using the will or trust eliminates the need for the account owner to remember to change the POD designation if one of the death payees dies before the account owner.

**"In Trust For" Accounts:** An "in trust for" account is the same thing as a POD account. The "trustee" has all rights in the funds until the "trustee's" death at which time the "beneficiary" gets the money. Since the law on POD accounts is more clear than "in trust for" accounts, customers should be encouraged to use the POD designation when they want to open an account with a death beneficiary.

<sup>\*</sup> Requiring multiple signatures for withdrawals from a joint account will not solve the potential problem of the "death beneficiary owner" taking money out of the account. Joint signatures means that the "death beneficiary owner" would also have to approve withdrawals by the true owner that probably would not be acceptable to the true owner.

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**Uniform Transfers to Minors:** Sometimes a parent or grandparent will open a Uniform Transfers to Minors account with every intention that the child should get the money. But, something may come up and the parent or grandparent may need the money back. Under a Uniform Transfers to Minors account the transfer of funds is irrevocable and the person who provided the funds has no right to take them back. If a customer wants a child to have money, but only after the death of the customer (that is, the customer wants the right to use the money for himself or herself), then a POD account with a Uniform Transfers to Minors Law custodian designation should be used rather than a Uniform Transfers to Minors account (see "Minor Death Beneficiaries" below).

#### *Taxpayer Identification Number*

Use the taxpayer identification number of the account owner since the death beneficiaries of the account have no interest in the funds until the death of the owner. Use the number of the first named owner if a joint tenancy account.

#### *Creating the Account*

A POD account is created by designating in writing to whom the funds in the account will be paid upon the death of the account owner. The designation may be made at the time the account is opened or after opening the account. For joint accounts, all joint owners should agree to the POD designation and all joint owners should agree to the change or termination of the POD designation which assures that each joint owner is always in agreement with the designation of POD beneficiaries.

There is no maximum number of beneficiaries who may be designated for a POD account. However, for ease of administration a bank may wish to impose its own limits on the number of beneficiaries that the bank will permit to be designated on a POD account.

Pay on death instructions may be made on the account card as follows:

1. John, POD Henry
2. John and Mary, POD Henry
3. John and Mary tenants by the entireties, POD Fred, George and Henry

In the first example, whatever funds remain in John's account at John's death are payable to Henry. In the second example, upon the last to die of John and Mary, whatever funds remain are paid to Henry. In the third example, whatever funds remain upon the last to die of John and Mary are divided equally (absent instructions to the contrary) between Fred, George and Henry, or whichever of them survives. However, as long as the original owner or owners are alive, the POD beneficiaries have no claim to the account prior to the owner's death.

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Even though a POD designation may be made on the account card, a separate POD agreement form may be better for both the bank and the customer. A sample form is provided at the end of this chapter. The use of a form permits the bank to have more information necessary to identify a POD beneficiary. It also makes it easier to change or terminate a designation; a new form merely replaces a prior one or the termination section of an existing form is signed. The form also permits incorporating a Uniform Transfers to Minors account into the POD designation in case a minor is the POD beneficiary (this is discussed further below in "*Minor Death Beneficiaries*"). When there is a POD agreement, the account signature card, certificate of deposit or other instrument should show the ownership of the account as follows:

1. John, subject to POD Instructions
2. John or Mary, JTWROS, subject to POD Instructions
3. Peter or Nancy, TEN by ENT, subject to POD Instructions

The designation of death beneficiary may be changed any time by the account owner executing a new POD designation form or by executing a new signature card.

The beneficiary does not have to sign any documents, and does not even have to know that he or she has been designated as a beneficiary. Consent from the death beneficiary is not required to change a payee designation or to terminate the POD provisions of the account.

An attorney-in-fact appointed under a power of attorney is *not* authorized to make or change POD beneficiary designations for the principal's account unless that power (or the general power to change survivorship rights in the principal's assets) is specifically granted in the power of attorney. Even if the power to change survivorship rights is granted in the power of attorney, the attorney-in-fact should not name himself or herself as a POD beneficiary unless the power of attorney specifically authorizes the attorney-in-fact to name himself or herself as beneficiary. See "*POWER OF ATTORNEY*" for a more detailed discussion of limitations on the powers of an attorney-in-fact.

### ***Minor Death Beneficiaries***

If the customer wants to name a minor as the death beneficiary, the customer should consider what will happen to the money if the customer dies while the beneficiary is still a minor. If the child is very young it may be necessary to have a conservator appointed to manage any funds that pass to the minor at the death of the account owner. A parent of the child is not automatically the conservator of the child's money and the bank cannot just pay the money to a parent. If there is enough money at stake there may be a serious legal fight among various people trying to take control of the money by being named conservator.<sup>9</sup>

<sup>9</sup> This discussion is not intended to suggest that it is an absolute necessity to have a conservator appointed before money can be paid out for a minor POD beneficiary. Banks need to make their own determination of how much money must be involved and other factors in deciding whether to pay the money to a parent without the need for a formal conservatorship

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If a customer names a child as a POD beneficiary, the customer should take steps to assure that a person acceptable to the customer is appointed to administer the money if the customer dies while the child is still a minor. This can be done very easily in a POD designation form such as the one at the end of this chapter. By combining a POD designation with a Uniform Transfers to Minors designation the customer can provide for the administration of the money after death of the owner. As long as the customer is alive the customer has full power over the account. After death, the person named by the customer as custodian under the Uniform Transfers to Minors designation will automatically take over control of the money. In this way there will be no confusion and no money wasted on legal proceedings. And, the customer's wishes will be followed with respect to who is authorized to manage the money.

The fact that the deceased customer had a will or trust will not help the problem of a minor POD beneficiary. A POD designation supersedes a will or a trust. Therefore, the funds in the account cannot be handled under the will or trust. There will have to be either a conservator appointed or a custodian designation in the POD designation form.

If a customer sets up a POD account a banker should inquire about the age of the beneficiary. If the beneficiary is a minor, the banker should discuss with the customer designating a custodian in the event the customer dies before the beneficiary becomes an adult.

#### *Death of Beneficiary Before Owner*

Under a standard POD, money in an account only goes to POD beneficiaries who survive the account owner. If a POD beneficiary dies before the owner, in the absence of an LDPS designation, the money does not pass on to the heirs of the deceased POD beneficiary.

Some POD forms, or some bank policies, permit a "lineal descendants per stirpes" or "LDPS" provision as part of a POD designation. LDPS means that funds in a POD account pass not only to the named death beneficiaries, but also to the heirs of a death beneficiary who dies before the account owner. Under a normal POD designation, if the death beneficiary dies before the account owner, none of the heirs of the deceased death beneficiary has any rights to funds on the death of the original owner. If there is an LDPS designation, then the heirs of a deceased POD beneficiary are entitled to the deceased death beneficiary's share of the money when the original owner dies. An example would be an account titled: "John POD Sue, LDPS". If Sue dies before John, Sue's heirs, whoever they might be, get the money. If there is an LDPS designation, and if the original POD beneficiary dies before the account owner, the bank will have to assure that all of the descendants of the deceased death beneficiary have been identified before the bank can distribute the funds in the account. This can be a time consuming and potentially expensive process. It is likely that the bank will have to pay its attorney to assist in the identification of POD beneficiaries.

proceeding. If the amount is small, and if the person to whom the money is paid is a parent, there is probably little likelihood of legal disputes and, therefore, a bank may make the decision to pay the money to a parent of the child for the child's benefit. But, if the amount of money is large, then requiring a court appointed conservator would be the best policy.

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Banks should consider whether they wish to permit LDPS POD designations -- especially for smaller accounts where the cost of determining the proper death payees may easily exceed what the bank earns on the account. A customer who wants such a complicated plan for distribution of assets may be better served by a will or a trust since the executor or trustee will be better able to identify who are the proper beneficiaries of the customer's assets.

### *Control of the Account; Payments on Death*

The account owner (or owners if it is a joint account) has full control of the account during the owner's life. The death beneficiary cannot withdraw any money as long as any account owner is still alive. If the account is a joint account with two or more owners, the POD beneficiary is entitled to the money only after the death of the last account owner to survive. The death beneficiary does not receive statements with respect to the account and is not entitled to any information about the account from the bank. The account owners (but not the death beneficiaries) can pledge the POD account. \*

When a bank permits a POD designation on an account, the bank assumes the responsibility of making sure that the death beneficiaries get the money in the account at the death of the original owner. The POD designation supersedes a will or trust and, therefore, the original owner's executor or trustee will have no authority or right to distribute the funds. The bank may distribute the funds upon receipt of a certified copy of the death certificate of the account owner or the last surviving joint account owner.

Because the bank must identify the death payees who are entitled to the money, it is recommended that the bank get basic information about the death beneficiaries at the time the account is opened -- particularly the address of each beneficiary. The address of the beneficiary will permit the bank to notify the death beneficiary that he or she is entitled to money and to help assure that the person who is claiming the funds is the true named beneficiary. Use of a POD designation form, such as the one provided at the end of this chapter, will give the bank this basic information.

After the death of the account owner (or of the last surviving account owner if it is a joint tenancy account) all of the money in the account becomes the property of the death beneficiaries. The bank may distribute the funds in the account to the POD beneficiaries after the bank gets a death certificate for the account owner or the last surviving joint account owner. If there are multiple death beneficiaries, then each death payee has a separate interest in his/her share of the funds as tenants in common as to the other POD beneficiaries and it is not necessary to have approval of all death beneficiaries to distribute the money to the POD beneficiaries. This means that the bank can make payments to individual death beneficiaries at any time. A distribution check should not be written to all of the death beneficiaries jointly, nor is it necessary to get approval of all of the death beneficiaries before making distributions to any one or more of them. It also means that if a death beneficiary dies before the bank distributes the money (but after the death of the account owner), the bank must distribute the deceased beneficiary's share to the estate of the deceased beneficiary since the money became the property of the deceased beneficiary as tenant in common immediately upon the death of the owner. The other death beneficiaries do not get the share of the deceased beneficiary.

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In the absence of special arrangements, each death beneficiary gets an equal share of the money in the account when the owner dies. The owner can provide for different death beneficiaries to receive different proportions of the money. In order to do this, a separate agreement form is required. The POD designation form at the end of this chapter permits different percentage shares to different death beneficiaries. Banks are cautioned not to draft their own agreements for unequal distributions unless they consult their attorney since it is necessary to provide in that agreement how to reallocate the funds if one of the death beneficiaries dies before the account owner. When distribution is in equal shares, no reallocation is necessary if a death beneficiary dies first since the remaining death beneficiaries will divide the money into equal shares.

If there is no surviving death beneficiary, then the bank needs to wait for a probate court order, or small estate affidavit, before distributing the funds to the estate of the owner.

A POD designation takes precedence over the provisions of a customer's will or trust. Therefore, even if the customer has a will, the money in a POD account will go to the POD beneficiary, not to the will or trust beneficiaries.

If the death beneficiary is a minor, see "*Minor Death Beneficiaries*", above in this chapter.

### *Creditors*

~~Creditors of the account owner(s) may execute against the account for debts of the account owner(s) to the same extent as if the account did not have the POD designation. Creditors of the death beneficiary have no right in the funds while an original owner is still alive. The bank should not freeze the funds in an account if there is a garnishment or IRS levy against the death beneficiary.~~

Since the money in the account passes to the POD beneficiaries immediately on the death of the account owner, the question arises as to whether the bank has the right to offset these funds to pay any loans or other obligations of the deceased owner that are outstanding at the time of death. In order to assure that the bank does not lose any of its rights in the money, the original owner should agree that the bank's rights to the funds take priority over the rights of the death beneficiaries. The POD designation form at the end of this chapter gives the bank such priority rights. NOTE: THIS FORM HAS BEEN UPDATED SINCE THE LAST EDITION OF THIS MANUAL WITH RESPECT TO PRESERVING THE BANK'S RIGHTS TO THE FUNDS. BANKS USING THE FORM SHOULD UPDATE THEIR FORMS ACCORDINGLY.

### *Required Documentation*

Pay on death instructions may be designated either on a signature card or on a separate Pay on Death Designation form. Otherwise, the underlying account is documented as appropriate for that particular type of account. Starting on the next page is a sample Pay on Death Designation form.

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PREARRANGED SERVICES**(Sample Form)****PAY ON DEATH DESIGNATION**

The undersigned hereby direct(s) \_\_\_\_\_ (the "Bank"), to pay or transfer upon my/our death all of the funds represented by the following instrument or account:

Type of Account  
or Instrument

Identifying Number

\_\_\_\_\_

\_\_\_\_\_

to the following beneficiary(s):

Name of Payee: \_\_\_\_\_ %

Taxpayer Identification Number: \_\_\_\_\_

Address of Payee: \_\_\_\_\_

Name of Payee: \_\_\_\_\_ %

Taxpayer Identification Number: \_\_\_\_\_

Address of Payee: \_\_\_\_\_

Name of Payee: \_\_\_\_\_ %

Taxpayer Identification Number: \_\_\_\_\_

Address of Payee: \_\_\_\_\_

or whichever of them shall survive. If no specific percentage designation is provided, each surviving beneficiary will share equally in the available funds. If specific percentage allocations are made, then if any beneficiary dies before the account owner, the deceased beneficiary's share shall be allocated to the remaining beneficiaries pro rata in accordance with their specific percentage allocation (In making such allocation, the percentage interests of each surviving beneficiary shall be added together, and the specific percentage interest of a surviving beneficiary shall be divided by the total).

If any beneficiary is under 18<sup>10</sup> years of age at the time any amounts are payable hereunder to such minor payee, all amounts payable to such minor payee shall be payable to the following person as custodian under the Missouri Transfers to Minors Law for such minor payee until such minor payee reaches 18 years of age. If the designated custodian is unable or unwilling to serve then the designated substitute custodian shall serve. If there is no custodian able or willing to serve, then the Bank shall be entitled to retain the funds otherwise payable to the minor payee until a conservator is appointed for the minor payee, or until the minor payee reaches 18 years of age.

<sup>10</sup> The form in the last edition of this booklet had the age 21.

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**PAY ON DEATH DESIGNATION (continued)**

Custodian's Name: \_\_\_\_\_  
Custodian's Address: \_\_\_\_\_  
Substitute Custodian's Name: \_\_\_\_\_  
Substitute Custodian's Address: \_\_\_\_\_

Upon receipt of a certified copy of a death certificate of the undersigned, the Bank shall be authorized to pay or transfer such instrument or account to the beneficiary(s). If the account or instrument is held as joint tenants with rights of survivorship or tenants by the entireties, such instrument or account shall be paid to the beneficiary(s) only upon the death of the remaining survivor of the undersigned.

This designation is subject to the provisions of Missouri law (Section 362.471) regarding POD designations and to all existing and future rules of the Bank regarding POD designations.

This designation may be changed or revoked only by written instructions to the Bank from each owner of the Account. This designation will take precedence over, and may not be revoked by, any will or trust of the undersigned. This Pay on Death Designation shall be deemed to terminate automatically if all of the beneficiaries predecease the undersigned.

**THIS PAY ON DEATH DESIGNATION TERMINATES, SUPERSEDES AND REPLACES ANY PRIOR PAY ON DEATH DESIGNATION WITH RESPECT TO THE ACCOUNT OR INSTRUMENT DESCRIBED ABOVE.**

The rights of the designated payee of the instrument or account are subordinate to any rights of the Bank or any other creditor to whom such instrument or account has been pledged or who may otherwise have a lien interest or right of setoff in such instrument or account. No amounts will be payable to any designated payee until any indebtedness of the owner(s) of the account to the Bank have been paid in full.<sup>11</sup> The Bank shall be entitled to be reimbursed from the funds in the instrument or account for any costs incurred by the Bank, including legal fees, as a result of the Bank paying or refusing to pay any amounts hereunder, unless such costs are incurred as a result of the Bank's intentional wrongful refusal to make payments as required hereunder.

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<sup>11</sup> This language has been changed from the last booklet. The prior claims of the bank have been extended to all debt, not just debts for which the account was pledged.

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PREARRANGED SERVICES**PAY ON DEATH DESIGNATION (continued)**

THE UNDERSIGNED ACKNOWLEDGE THAT THEY HAVE OBTAINED WHATEVER ADVICE THEY DEEM APPROPRIATE FROM THEIR ATTORNEY OR FINANCIAL ADVISOR PRIOR TO SIGNING THIS DESIGNATION. THE BANK HAS MADE NO REPRESENTATIONS AS TO THE APPROPRIATENESS OF THIS PAY ON DEATH DESIGNATION. THE BANK SHALL HAVE NO LIABILITY TO THE UNDERSIGNED, OR THEIR HEIRS, REPRESENTATIVES OR ASSIGNS, OR TO ANY OTHER PERSON, FOR PAYING THE ACCOUNT OR INSTRUMENT TO THE PERSONS DESIGNATED HEREIN OR FOR ANY ERRONEOUS PAYMENTS UNLESS MADE BY THE BANK WITH ACTUAL KNOWLEDGE THAT THE PERSON TO WHOM PAYMENT WAS MADE WAS NOT THE PAYEE DESIGNATED HEREIN.

Dated: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

**TERMINATION OF DESIGNATION**

The undersigned, being each of the persons who executed the foregoing Pay on Death Designation, or being the survivor if the other is deceased, hereby terminates the foregoing Pay on Death Designation effective immediately.

Dated: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

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**Cancellation of contract, when, procedure.**

436.456. At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any income earned by the trust that would be required to fund the percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.



Cancellation of contract, when, procedure.

436.456. At any time before final disposition, or before the funeral or burial services, facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel the contract, if designated as revocable, without cause. In order to cancel the contract the purchaser shall:

(1) In the case of a joint account-funded preneed contract, deliver written notice of the cancellation to the **provider**, seller and the financial institution. Within fifteen days of receipt of notice of the cancellation, **the provider and seller shall take such steps as are necessary in order to allow the** financial institution **[shall]** to distribute all deposited funds to the purchaser. Interest shall be distributed as provided in the agreement with the seller and purchaser;

(2) In the case of an insurance-funded preneed contract, deliver written notice of the cancellation to the **provider and** seller. Within fifteen days of receipt of notice of the cancellation, the seller shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance funding the contract and that insurance cancellation is required to be made in writing to the insurer;

(3) In the case of a trust-funded preneed contract, deliver written notice of the cancellation to the **provider**, seller and trustee. Within fifteen days of receipt of notice of the cancellation, the trustee shall distribute one hundred percent of the trust property including any percentage of the total payments received on the trust-funded contract that have been withdrawn from the account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the contract;

(4) In the case of a guaranteed installment payment contract where the beneficiary dies before all installments have been paid, the purchaser shall pay the seller the amount remaining due under the contract in order to receive the goods and services set out in the contract, otherwise the purchaser or their estate will receive full credit for all payments the purchaser has made towards the cost of the beneficiary's funeral at the provider current prices.

(L. 2009 S.B. 1)

**Seller's right to cancel, when, procedure.**

436.457. 1. A seller shall have the right to cancel a trust-funded or joint-account funded preneed contract if the purchaser is in default of any installment payment for over sixty days.

2. Prior to cancelling the contract, the seller shall notify the purchaser and provider in writing that the contract shall be cancelled if payment is not received within thirty days of the postmarked date of the notice. The notice shall include the amount of payments due, the date the payment is due, and the date of cancellation.

3. If the purchaser fails to remit the payments due within thirty days of the postmarked date of the notice, then the seller, at its option, may either cancel the contract or may continue the contract as a nonguaranteed contract where the purchaser will receive full credit for all payments the purchaser has made into the trust towards the cost of the beneficiary's funeral service or merchandise from the provider.

4. Upon cancellation by the seller under this section, **one hundred [eighty-five] percent** of the contract payments shall be refunded to the purchaser. All remaining funds shall be distributed to the seller.

**Alternative provider permitted, when.**

436.458. 1. A purchaser may select an alternative provider as the designated provider under the original contract if the purchaser notifies the seller and original provider in writing of the purchaser's intent, stating the name of the alternative provider and the alternative provider consents to the new designation. Purchasers shall not be penalized or assessed any additional fee or cost for such transfer of the provider designation.

3. In the case of a trust-funded contract and upon written notice to the seller of the purchaser's intent to select an alternative provider under subsection 1 of this section, the seller shall either continue the trust with the new provider in place of, and to receive all payment owed to, the original provider under the original agreement, or pay to the new trust all of the trust property, including principal and income. If the alternative provider does not transfer the contract's trust property to a new trust, the alternative provider shall be deemed to have agreed to the terms of the trust agreement governing the contract.



**Alternative provider permitted, when.**

**436.458.** 1. A purchaser may select an alternative provider as the designated provider under the original contract if the purchaser notifies the seller and original provider in writing of the purchaser's intent, stating the name of the alternative provider and the alternative provider consents to the new designation. Purchasers shall not be penalized or assessed any additional fee or cost for such transfer of the provider designation.

2. The seller shall pay the newly designated provider all payments owed to the original provider under the contract. The newly designated provider shall assume all rights, duties, obligations, and liabilities as the original provider under the contract. Interest shall continue to be allocated to the seller as provided under the contract.

3. In the case of a trust-funded contract and upon written notice to the seller of the purchaser's intent to select an alternative provider under subsection 1 of this section, the seller shall either continue the trust with the new provider in place of, and to receive all payment owed to, the original provider under the original agreement, or pay to the new trust all of the trust property, including principal and income.

**4. In the case of an insurance-funded contract and annuity funded contract the policy owner shall re-assign the death benefits to the newly designated provider by notifying the insurance company and completing the paperwork required of that insurance company.**



Alternative provider permitted, when.

436.458. 1. A purchaser may select an alternative provider as the designated provider under the original contract if the purchaser notifies the seller and original provider in writing of the purchaser's intent, stating the name of the alternative provider and the alternative provider consents to the new designation. Purchasers shall not be penalized or assessed any additional fee or cost for such transfer of the provider designation.

2. The seller shall pay the newly designated provider all payments owed to the original provider under the contract. The newly designated provider shall assume all rights, duties, obligations, and liabilities as the original provider under the contract. Interest shall continue to be allocated to the seller as provided under the contract.

3. In the case of a trust-funded contract and upon written notice to the seller of the purchaser's intent to select an alternative provider under subsection 1 of this section, the seller shall either continue the trust with the new provider in place of, and to receive all payment owed to, the original provider under the original agreement, or pay to the new trust all of the trust property, including principal and income.

**4. In any case where an alternate provider is designated, the original seller can require, prior to the new designation becoming effective, that a new seller accept the contract and all funds associated with the contract and, upon written verification of said acceptance by the new seller, the original seller is relieved of all obligations under this chapter regarding said contract other than to include notice of the transfer in its annual report.**

(L. 2009 S.B. 1)

**Seller report to board required, contents--fee--filing of reports.**

**436.460.** 1. Each seller shall file an annual report with the board which shall contain the following information:

...

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;

(2) The status and total face value of each policy;

**[(3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company]; and**

**[(4)] (3) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct [attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration].**



Seller report to board required, contents--fee--filing of reports.

436.460. 1. Each seller shall file an annual report with the board. **For contracts sold prior to August 28, 2009, the seller shall file reports as required under the provisions of the chapter as they existed at the time the contract was entered into. Such annual report shall be required even if the seller ceases at any time to be a licensed seller pursuant to the terms of this chapter. For all contracts sold after August 28, 2009 the seller shall file an annual report** which shall contain the following information:

- (1) The contract number of each preneed\* contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;
  - (2) The total number and total face value of preneed contracts sold since the filing of the last report;
  - (3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;
  - (4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;
  - (5) The date the report is submitted and the date of the last report;
  - (6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;
  - (7) The name and address of each provider with whom it is under contract;
  - (8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;
  - (9) Written consent authorizing the board to order an investigation, examination and, if necessary, an audit of any joint or trust account established under sections 436.400 to 436.520, designated by depository or account number;
  - (10) Written consent authorizing the board to order an investigation, examination and if necessary an audit of its books and records relating to the sale of preneed contracts; and
  - (11) Certification under oath that the report is complete and correct attested to by an officer of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or declaration.
2. A seller that sells or has sold trust-funded preneed contracts shall also include in the annual report required by subsection 1\*\* of this section:
- (1) The name and address of the financial institution in which it maintains a preneed trust account and the account numbers of such trust accounts;
  - (2) The trust fund balance as reported in the previous year's report;
  - (3) The current face value of the trust fund;
  - (4) Principal contributions received by the trustee since the previous report;
  - (5) Total trust earnings and total distributions to the seller since the previous report;
  - (6) Authorization of the board to request from the trustee a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller;
  - (7) Total expenses, excluding distributions to the seller, since the previous report; and
  - (8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration.

3. A seller that sells or who has sold joint account-funded preneed contracts



shall also include in the annual report required by subsection 1 of this section:

- (1) The name and address of the financial institution in Missouri in which it maintains the joint account and the account numbers for each joint account;
- (2) The amount on deposit in each joint account;
- (3) The joint account balance as reported in the previous year's report;
- (4) Principal contributions placed into each joint account since the filing of the previous report;
- (5) Total earnings since the previous report;
- (6) Total distributions to the seller from each joint account since the previous report;
- (7) Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report; and
- (8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by an authorized representative of the financial institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

- (1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;
- (2) The status and total face value of each policy;
- (3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company; and
- (4) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration.

**(5)The above reporting provisions do not apply in the case of an insurance policy that was not purchased in conjunction with the preneed contract and where the funeral home is being made the beneficiary or assignee in order to qualify for benefits pursuant to Chapter 208 RSMo. In that event, the seller shall report the name and address of the insurance company and the face value of said policy and the preneed contract number that it is associated with.**

5. Each seller shall remit an annual reporting fee in an amount established by the board by rule for each preneed contract sold in the year since the date the seller filed its last annual report with the board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the board from the funds of the seller. The reporting fee shall be in addition to any other fees authorized under sections 436.400 to 436.520.

6. All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board.

7. If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid.

8. This section shall apply to contracts entered into before August 28, 2009.

(L. 2009 S.B. 1)

\*Word "preened" appears in original rolls.



\*\*Words "section 1" appear in original rolls.

Don Otto's Suggestions

**Violations, penalties.**

436.485. 1. Any person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.400 to 436.520 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class C felony. Each violation of any provision of sections 436.400 to 436.520 constitutes a separate offense and may be prosecuted individually. The attorney general shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

2. Any violation of the provisions of sections 436.400 to 436.520 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.400 to 436.520, the court may order all relief and penalties authorized under chapter 407, RSMo, and, in addition to imposing the penalties provided for in sections 436.400 to 436.520, order the revocation or suspension of the license or registration of a defendant seller, provider, or preneed agent, and the recovery of all expense of any audit or examination conducted of the funding of seller's preneed contracts.

**Renumbering has not been completed. This is a Board draft for consideration.**

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**General Rule**

- All licenses and registrations issued to any practicum, apprentice, registrant and/or licensee shall be displaced, at all times, in a conspicuous location accessible to the public at each funeral establishment where the person is working.
- Each Missouri licensed apprentice, registrant and licensee shall comply with all applicable state, county or municipal zoning ordinances and regulations.
- The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.
- The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations requirements as they apply to Missouri licensees.

**Title 20—DEPARTMENT OF  
INSURANCE, FINANCIAL  
INSTITUTIONS AND  
PROFESSIONAL REGISTRATION**

**Division 2120—State Board of  
Embalmers and Funeral Directors**

**Chapter 1—Organization and  
Description of Board**

**20 CSR 2120-1.010 General Organization**

*PURPOSE: This rule describes the board's operation and the methods and procedures where the public may obtain information and make submissions or requests.*

(1) Whenever used in this division, the word board means the State Board of Embalmers and Funeral Directors.

(2) The board is a unit of the Division of Professional Registration.

(3) The board is authorized by section 333.111.1, RSMo to adopt rules necessary for the transaction of its business and for the standards of service and practice to be followed in the professions of embalming and funeral directing.

(4) The board has at least two (2) regularly scheduled business meetings each year and such other meetings as determined by the board. The time and location for all board meetings may be obtained by contacting the board office at PO Box 423, Jefferson City, MO 65102-0423.

(5) The meetings of the board shall be conducted in accordance with *Robert's Rules of Order*, Newly Revised, 10th Edition, so far as it is compatible with the laws of Missouri governing this board or the board's own resolutions as to its conduct.

(6) All board meetings will be open to the public except as provided by law.

(7) Members of the public may obtain information

from the board, or make submissions to the board, by writing the board at PO Box 423, Jefferson City, MO 65102-0423 or consulting the board's website. [by visiting <http://pr.mo.gov/embalmers.asp>.]

(8) Examinations. After verification and approval by the board, application, scheduling, administration and payment for any examination required for licensure from the board shall be made to the board's testing service, currently the International Conference of Funeral Service Examining Boards, Inc. ,or its designee. The testing service shall approve applications upon the board's verification and approval.

(A) Notification of intent to take an examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination, unless otherwise stated in a specific regulation. At its discretion, the board may waive such notice requirement for examination candidates

for good cause, provided that no waiver can be provided by the board that may



**Renumbering has not been completed. This is a Board draft for consideration.**

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violate the rules of the testing service. If a reexamination is required or requested, there is a mandatory thirty (30)-day waiting period between each Missouri reexamination date. (B) All Missouri examinations may be provided in a computer-based testing format. [ , except oral examination. Oral examinations will be held at the location designated by the board.]? Other examinations shall be held at the locations designated by the testing service. A complete listing of the conference's examination sites is at [theconferenceonline.org](http://www.cfseb.org) [<http://www.cfseb.org>] or is available at the board's [office] website. (9) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.111 and 333.151.1, RSMo 2000 and 536.023.3, RSMo Supp. 2006. \* This rule originally filed as 4 CSR 120-1.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

*\*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.151, RSMo 1965, amended 1981, 1999; and 536.023, RSMo 1975, amended 1976, 1997, 2004.*

**20 CSR 2120-1.020 Board Member**

**Compensation**

*PURPOSE: This rule fixes the compensation for the members of the State Board of Embalmers and Funeral Directors in compliance with the mandates of section 333.221.1, RSMo.*

(1) Each member of the State Board of Embalmers and Funeral Directors shall

receive the sum of fifty dollars (\$50) as compensation

for each day that member devotes to the affairs of the board.

(2) In addition to the compensation fixed in this rule, each member is entitled to reimbursement of his/her expenses necessarily incurred in the discharge of his/her official duties.

(3) No request for compensation provided in this rule shall be processed for payment unless sufficient funds are available for that purpose within the appropriations for this board.

(4) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.111 and 333.221, RSMo 2000. \* This rule originally filed as 4 CSR 120-1.020. Emergency rule filed Sept. 17, 1981, effective Sept. 28, 1981, expired Dec. 28, 1981. Original rule filed Sept. 17, 1981, effective Feb. 11, 1982. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.020, effective Aug. 28, 2006*

*\*Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 333.221, RSMo 1965, amended 1980, 1981.*

**20 CSR 2120-1.030 Election and Removal of Officers**

*PURPOSE: This rule sets out the term of office and outlines the duties of the officers of the board and establishes a procedure for removal of a board member from serving as an officer of the board.*

(1) Prior to April 1 of each year at a regularly scheduled meeting, the board shall elect a chairman, vice-chairman and secretary to serve as its officers.

(2) Any board member duly nominated and receiving a majority vote of the members serving on the board shall be considered elected as an officer.

(3) The terms of the officers elected shall commence on April 1 and expire on March 31 of the succeeding year.



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(4) The officers elected by the board shall have the following duties:

(A) Chairman—shall chair the board meetings; advise the board's staff on the handling of complaints; call special board meetings; appoint committees of the board; may order, as s/he deems necessary, investigation of any complaint; may act on matters requiring immediate and necessary attention; make board member assignments; and any other duty which from time-to-time may be delegated by consent of the board;

(B) Vice-chairman—shall serve as chairman in the absence of the chairman; review all licensees' compliance with the terms of any disciplinary order or agreement; and any other duty which may from time-to-time be delegated by consent of the board; and

(C) Secretary—shall perform any duties that may from time-to-time be delegated by consent of the board.

(5) Any officer may be removed from office at any time upon a vote of a majority of the members of the board.

(6) The board, in its discretion, may have a special election to fill any office which for any reason becomes vacant.

(7) Each board member, whether or not an officer of the board, may participate in any vote relating to the election or removal of officers.

*AUTHORITY: sections 333.111.1, RSMo Supp. 1999 and 333.181, RSMo 1994. \* This rule originally filed as 4 CSR 120-1.030. Original rule filed Dec. 2, 1993, effective July 30, 1994. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Moved to 20 CSR 2120-1.030, effective Aug. 28, 2006. \*Original authority: 333.111.1., RSMo 1965, amended*

*1981, 1993, 1995 and 333.181, RSMo 1965.*

**20 CSR 2120-1.040 Definitions**

*PURPOSE: This rule defines terms used throughout the board's regulations consistent with the practice act.*

(1) Apprentice embalmer—an individual who is being trained as an embalmer under the immediate direction and personal supervision of a Missouri licensed embalmer for the "practice of embalming," the work of preserving, disinfecting, and preparing by arterial embalming, or otherwise, of dead human bodies or the holding of oneself out as being engaged in such work and has met the requirements for registration pursuant to sections

333.041 and 333.042, RSMo, and 20 CSR 2120-2.010.

(2) Apprentice funeral director—an individual who is being trained as a funeral director in a Missouri licensed funeral establishment under the supervision of a Missouri licensed funeral director in the "practice of funeral directing," the business of preparing, otherwise than by embalming, for the burial, disposal, or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision, or management of the operations of a Missouri licensed funeral establishment and has met the requirements for registration pursuant to 20 CSR 2120-2.060.

(3) Board—Missouri State Board of Embalmers and Funeral Directors created by the provisions of Chapter 333, RSMo.

(4) Corporation—a business entity incorporated under the laws of Missouri or any other state with authority to do business in the state of Missouri.

(5) Cremation log—a written record or log kept in the cremation area available at all times in full view for a board inspector, which shall include the following:

(A) The name of the deceased to be cremated;

(B) The name of the Missouri licensed establishment where the body is cremated;

(C) The date and time the body arrived at the crematory;

(D) The date and time the cremation took place;

(E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;

(F) The supervising Missouri licensed funeral director's license number or the supervising Missouri licensed embalmer's license number; and

(G) The name of the Missouri licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

- Cremated remains—the bone fragments which remain after the cremation process is completed.

- Cremation—the technical heating process which reduces remains to bone fragments

through heat and evaporation; a final disposition of dead human remains.



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- Cremation box—a container into which cremated remains are placed for transportation or short-term storage.
- Cremation chamber—the total functioning mechanical unit for the actual cremation process.
- Cremation container—the case in which the human remains are delivered to the crematory area for cremation.
- Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.
- Crematory Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.
- Cremation Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

(6) Disinterment—removal of dead human remains from the ground, grave, or tomb.

(7) Embalmer—an individual holding an embalmer's license issued by the State Board of Embalmers and Funeral Directors.

(8) Embalmer examination—an examination consisting of the following:

(A) National Board Funeral Service Arts Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board;

(B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination;

(C) National Board Funeral Service Science Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; and

(D) Missouri Law Section.

(E) Oral Section (if not removed).

(9) Executive director—executive secretary of the board.

(10) Function—the purpose for which a physical location may be used.

(11) Funeral ceremony—a religious service or other rite or memorial ceremony for a decedent.

(12) Funeral director—an individual holding a funeral director license issued by the State Board of Embalmers and Funeral Directors.

(13) Funeral director examination—an examination consisting of the following:

(A) Missouri Law Examination; and

(B) Missouri Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; or

(C) National Board Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

(14) Funeral director-in-charge—an individual licensed as a funeral director by the State Board of Embalmers and Funeral Directors responsible for the general management and supervision of a Missouri licensed funeral establishment in the state of Missouri. Each Missouri licensed funeral establishment shall have a Missouri licensed funeral director designated as the funeral director-in-charge.

(15) Funeral establishment—a building, place, or premises licensed by the Missouri State Board of Embalmers and Funeral Directors devoted to or used in the care and preparation for burial, cremation, or transportation of the human dead and includes every building, place, or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose.

(16) Funeral service—any service performed in connection with the care of a dead human body from the time of death until final disposition including, but not limited to:

(A) Removal;

(B) Entering into contractual agreements for the provision of funeral services;

(C) Arranging, planning, conducting, and/or supervising visitations and funeral ceremonies;

(D) Interment;

(E) Cremation;

(F) Disinterment;

(G) Burial; and

(H) Entombment.



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(17) Interment—burial in the ground or entombment of dead human remains.

(18) Limited license—allows a person to work only in a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

(19) Preparation room—refers to the room in a Missouri licensed funeral establishment where dead human bodies are embalmed, bathed, and/or prepared for final disposition.

(20) Reciprocity examination—shall consist of the Missouri Law Examination.

(21) Register log—a written record or log **must be maintained** [kept in the reparation/embalming room of ] **in all** Missouri licensed funeral establishment available at all times in full view for a boardinspector, which shall include the following:

- (A) The name of the deceased;
- (B) The date and time the dead human body arrived at the funeral establishment;
- (C) The date and time the embalming took place, if applicable;
- (D) The name and signature of the Missouri licensed embalmer, if applicable;
- (E) The name and signature of the Missouri registered apprentice embalmer, if any;
- (F) The Missouri licensed embalmer's license number, if applicable;
- (G) The Missouri apprentice embalmer registration number, if any; and
- (H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

**Temporary Funeral Director – license valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.**

(22) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.011, SB 1, Ninetyfifth General Assembly 2009 and section 333.111, RSMo 2000. \* This rule originally filed as 4 CSR 120-1.040. Original rule filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010. \*Original authority: 333.011, RSMo 1965, amended 2007, 2008, 2009 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

**Title 20—DEPARTMENT OF  
INSURANCE, FINANCIAL  
INSTITUTIONS AND  
PROFESSIONAL REGISTRATION  
Division 2120—State Board of  
Embalmers and Funeral Directors  
Chapter 2—General Rules**

**20 CSR 2120-2.010 Embalmer's Registration  
and Apprenticeship**

*PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.*

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, shall complete a practicum as required by the accredited institution of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol. **(fingerprinting)**

(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum



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student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within **[ten (10)]** fifteen (15) days of the change.

**[(4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.]**

**[(5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.]**

**(6) If the practicum needs to extend the practicum a new application and fees will be applicable. Upon successful completion of the practicum, the practicum student registration shall become null and void. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.**

(7) After graduating from an accredited institution of mortuary science education, the applicant then shall file, with the board, an official transcript of his/her embalming school grades showing s/he is a graduate of that school. **An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination [In addition, the applicant shall ensure that his/her official copy of the National Board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.]**

**[(10) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.]**



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(8) Effective July 30, 2004, the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application, payment, scheduling, and administration for the [n]National [b]Board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another Missouri license within the jurisdiction of the board and the license is in active status. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(9) The embalm[ing]er examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules, and regulations governing the care, custody, shelter, and disposition of dead human bodies and the transportation thereof.

[(10) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.]

(11) Those applicants achieving seventy-five percent (75%) on each of the three (3) sections

of the embalm[ing]er examination will be deemed to have passed the board's embalming examination. Any applicant who scores less than seventy-five percent (75%) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant shall score at least seventy-five percent (75%) to pass.

(12) After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the embalm[ing]er examination, s/he then may apply for registration as an apprentice embalmer. [In lieu of

the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.]

[This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website. [at <http://pr.mo.gov/embalmers.asp>.]]

(13) Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve, the name(s), location(s), and

license number(s) of the licensed funeral establishment(s) where s/he is serving as an apprentice. Each supervisor must be licensed and registered with and approved by the board. If the apprentice embalmer begins work at any other licensed funeral establishment or has a change in supervisors during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the



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board, within ~~ten (10)~~ fifteen (15) business days after the change has been made.

**Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee.**

**Application**

**forms are available from the board office or the board's website. [at <http://pr.mo.gov/embalmers.asp>**

(14) The period of apprenticeship under this rule shall be at least twelve (12) consecutive months. The apprentice embalmer shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer.

[During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.]

(15) [ Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination.] [The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations [and Occupational Safety and Health Administration (OSHA)] requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.]

(16) An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully

completed the embalming of twenty-five (25) dead human bodies, shall be submitted to the board at the time of completion of the apprenticeship period. [ and prior to the oral examination.]

(17) After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall [appear for the oral examination. To appear for the oral examination, the embalmer applicant shall]:

[(A)] Submit an application on a form supplied by the board and pay the applicable fees to the board[: and]

[(B) Successfully pass the oral examination administered by the board for licensure.]

[(18) The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.]

(19) After satisfactory completion of these requirements, an embalmer's license shall be issued to an apprentice embalmer upon payment of the applicable fee and subject to the provisions of section 333. [121]330, RSMo.

(20) An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited institution of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board and the applicant shall be required to appear for the oral examination within five (5) years of the new date of application. No previous practicum, apprenticeship[, or application[,

or Missouri Law section] will be considered for a new application. However, the successful examination results of the National or Missouri [Board] Funeral Service Arts section, [and] the National Board Funeral Service Science section, and the Missouri Law Section (if applicable) developed and furnished by the International Conference of Funeral Service Examining



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Boards, Inc., or designee of the board will be accepted.

(21) A Missouri licensed embalmer may engage in the practice of embalming [in the state of Missouri] only in a Missouri licensed funeral establishment[s]. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s), and license number(s) where the embalmer is performing embalming.

(22) A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated

or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution

under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(23) Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except, the Missouri licensed embalmer shall be exempt from the requirement of a funeral director apprenticeship.

(24) Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination (if applicable), and shall be required to complete a six (6) consecutive month period of apprenticeship during which time s/he shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer's license under this section. No previous apprenticeship, application, or examination (if applicable) will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Science section will be accepted.

[(25) After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application

o[f]n a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.]

[(26) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office or place of business where they work, for inspection by any duly authorized agent of the board.]

(27) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.041, 333.081, and 333.121, RSMo Supp. 2008, section 333.091, SB 1, Ninety-fifth General Assembly 2009, and section 333.111, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.010.*

*Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 26, 1976.*

*Amended: Filed Aug. 16, 1976, effective Dec.*

*11, 1976. Amended: Filed April 6, 1978, effective July 13, 1978. Emergency rule filed*

*Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and*

*readopted:*

*Filed Nov. 8, 1978, effective Feb. 11,*

*1979. Rescinded and readopted: Filed Jan.*

*13, 1982, effective April 11, 1982. Rescinded*

*and readopted: Filed Dec. 3, 1982, effective*

*March 11, 1983. Amended: Filed July 17,*

*1989, effective Oct. 12, 1989. Amended:*

*Filed March 26, 1991, effective Sept. 30,*

*1991. Amended: Filed Aug. 13, 1991, effective*

*Jan. 13, 1992. Amended: Filed Oct. 16,*

*1991, effective Feb. 6, 1992. Amended: Filed*

*Feb. 1, 1994, effective July 30, 1994. Amended:*

*Filed Aug. 30, 1995, effective Feb. 25,*

*1996. Amended: Filed Dec. 22, 1997, effective*



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*June 30, 1998. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.*  
*\*Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001; 333.081, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981, 2009; and 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981, 2007.*

**20 CSR 2120-2.020 Biennial License  
Renewal**

*PURPOSE: This rule outlines the requirements and procedures for the renewal of embalmer's, funeral director's and funeral establishment's licenses.*

(1) Each Missouri licensed embalmer or Missouri licensed funeral director shall notify the board within ~~[thirty (30)]~~ **fifteen (15)** days of each address change of the Missouri licensed funeral establishment at which s/he is practicing and shall notify the board within ~~[thirty (30)]~~ **fifteen (15)** days of any termination or creation of an employment relationship with a Missouri licensed funeral establishment. Each holder of a Missouri funeral establishment license shall notify the board at least sixty (60) days prior to any change of address of the Missouri licensed funeral establishment, sale of the Missouri licensed funeral establishment or termination of business of the Missouri licensed funeral establishment.

(2) A nonrenewable license, not valid for active practice in Missouri, will be issued at no charge to a currently licensed embalmer, funeral director, or both, upon presentation of a signed notarized statement from the licensee attesting to the fact that the licensee is disabled and is no longer active in the practice of embalming, funeral directing, or both. If the licensee desires at some future date to return to active practice in Missouri, the board shall issue a valid renewal license upon

payment of the current renewal fee and completion of the applicable renewal application form.

(3) The holders of expired Missouri embalmer's and funeral director's licenses which are not renewed will be notified that their licenses have expired. The holder of an expired license shall be issued a new license by the board within two (2) years of the renewal date after the proper reactivation fees have been paid. Any Missouri embalmer's license and Missouri funeral director's license not renewed within two (2) years shall be void.

(4) The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.

(5) The biennial license renewal date for Missouri licensed embalmers and Missouri licensed funeral directors shall be designated as June 1. The biennial license renewal date for Missouri licensed funeral establishments shall be designated as January 1.

(6) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.081, RSMo Supp. 2003 and 333.111.1, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.020. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed June 9, 1982, effective Sept. 12, 1982. Amended: Filed Jan. 13, 1986, effective April 25, 1986. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.020, effective Aug. 28, 2006.*



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*\*Original authority: 333.081, RSMo 1965, amended 1981, 2001 and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

**20 CSR 2120-2.022 Retired License**

*PURPOSE: This rule clarifies the requirements to retire from the practice of funeral directing and/or embalming.*

(1) Any person licensed to practice as a funeral director and/or embalmer in Missouri who is over sixty-five (65) years of age and who retires from such practice, shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which s/he retired from such practice, that s/he will not practice such profession and such other facts as tend to verify the retirement as the board may deem necessary; but if s/he thereafter wishes to reengage in the practice, s/he shall renew his/her registration with the board as provided in section 333.081.1, RSMo.

(2) For purposes of this section, a retired Missouri licensed funeral director and/or Missouri licensed embalmer is one who is neither engaged in the active practice of funeral directing/embalming nor holds him/herself out as an actively practicing funeral director/embalmer and has executed and filed with the board a retirement affidavit. A retired Missouri licensed funeral director/embalmer may keep his/her wallhanging certificate after execution of a retirement affidavit but shall surrender, upon retirement, all other indicia of licensure.

(3) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.081, RSMo Supp. 2003 and 333.111, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.022. Original rule filed July 15, 1996, effective Jan. 30, 1997. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.022, effective Aug. 28, 2006.*

*\*Original authority: 333.081, RSMo 1965, amended 1981,*

*2001 and 333.111.1, RSMo 1965, amended 1981, 1993, 1995.*

**[20 CSR 2120-2.030 Registration of Licensees with Local Registrars of Vital Statistics**

*PURPOSE: This rule outlines the procedure for registering renewal licenses with local registrars.*

(1) Pursuant to section 333.091, RSMo every holder of a Missouri embalmer's or funeral director's license, upon receiving his/her initial or renewal license(s), shall register his/her signature, name, address and license number with the local registrar of vital statistics for the registration district in which the licensee practices.

(2) Whenever a licensee changes his/her place of employment from the jurisdiction of one (1) registration district to another registration district, within ten (10) days after that change, s/he shall register with the local registrar to whose jurisdiction s/he has moved.

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.]

(4) Each licensed embalmer who embalms a dead human body shall state on the death certificate

that s/he embalmed the dead human body described on the death certificate. Each statement shall be attested to its accuracy either by signature or an electronic process approved by the board. [must be signed by the licensed

embalmer.] If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

(5) Each authentication [signature] of a licensed embalmer on

a death certificate must correspond with the [same] licensee's authentication as approved and licensed by the board. [signature as registered with

the local registrar of vital statistics.]

(6) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing



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Commission.

*AUTHORITY: sections 194.119, RSMo Supp.*

*2003 and 333.091 and 333.111, RSMo 2000.\**

*This rule originally filed as 4 CSR 120-2.030.*

*Original rule filed Oct. 17, 1975, effective*

*Oct. 28, 1975. Refiled March 24, 1976.*

*Emergency rule filed Nov. 9, 1978, effective*

*Nov. 20, 1978, expired Feb. 11, 1979.*

*Amended: Filed Nov. 8, 1978, effective Feb.*

*11, 1979. Rescinded and readopted: Filed*

*Jan. 13, 1982, effective April 11, 1982.*

*Amended: Filed June 9, 1982, effective Sept.*

*12, 1982. Amended: Filed Jan. 13, 1986,*

*effective April 24, 1986. Amended: Filed*

*Aug. 4, 1986, effective Oct. 11, 1986.*

*Amended: Filed Jan. 15, 1988, effective April*

*11, 1988. Amended: Filed Nov. 1, 2001,*

*effective April 30, 2002. Amended: Filed*

*Dec. 31, 2003, effective July 30, 2004. Moved*

*to 20 CSR 2120-2.030, effective Aug. 28,*

*2006.*

*\*Original authority: 194.119, RSMo 2003;*

*333.091, RSMo*

*1965, amended 1981; and 333.111, RSMo 1965,*

*amended*

*1981, 1993, 1995.*

**20 CSR 2120-2.040 Licensure by Reciprocity**

*PURPOSE: This rule outlines procedures for obtaining an embalmer or funeral director license by reciprocity.*

(1) Applications for a Missouri embalmer's or funeral director's license by reciprocity shall be made on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website [at <http://pr.mo.gov/embalmers.asp>].

Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state.

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory is eligible to obtain licensure by reciprocity by meeting the following requirements of the

board:

(A) Evidence satisfactory to the board that the reciprocity applicant holds a valid, unrevoked,

and unexpired license as an embalmer or funeral director in another state having substantially similar requirements to the requirements for licensure as either an embalmer or funeral director in this state including a copy of his/her original license issued by the other state;

(B) Proof of his/her educational and professional qualifications, which shall be substantially equivalent to the requirements

existing in Missouri at the time s/he was originally licensed;

(C) A certificate of state endorsement from the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;

(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination and the National Board Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or

(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination

provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; and

(F) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for



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which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status; (new rule pending)

(G) A completed application for licensure for reciprocity provided by the board; and  
(H) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board. (fingerprinting new rule)

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by meeting the following requirements of the board:

(A) An official certification from another state or territory which verifies that the licensee holds a valid, unrevoked, and unexpired funeral director or embalmer license in the other state or territory;

(B) A copy of his/her original funeral director or embalmer license from the other state or territory in which the applicant is licensed;

(C) Proof of his/her educational and professional qualifications;

(D) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status; ( new rule)

(E) A completed application for licensure for reciprocity provided by the board; and  
(F) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board. (fingerprinting)

[(4) Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state

may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state.]

(5) Applications for reciprocity licensure shall be completed and received by the board at least [thirty (30)] fifteen 15 days prior to the date the candidate plans to sit for the examination and shall be accompanied by the applicable fee. Applications are deemed complete upon submission of any and all requisite forms required by the board, payment of requisite fees, and submission of all materials required by this rule or supplemental materials requested by the board. Application forms can be obtained from the board office or the board's website [at <http://pr.mo.gov/embalmers.asp>].

(6) The board shall determine the sufficiency of the materials provided in the application for reciprocity and shall have the authority to make the final determination as to the standards and qualifications of the various states from which the applicants may be accepted by reciprocity and may reject any applicant on any lawfully permitted grounds.

[(7) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in the office(s) or place(s) of business, for inspection by any duly authorized agent of the board.]

(8) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.051 and 333.111, RSMo 2000 and section 333.091, SB 1, Ninety-fifth General Assembly 2009. \* This rule originally filed as 4 CSR 120-2.040. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979.*



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*Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.*

*\*Original authority: 333.051, RSMo 1965, amended 1981, 1998; 333.091, RSMo 1965, amended 1981, 2009; and 333.111, RSMo 1965, amended 1981, 1993, 1995.*

**20 CSR 2120-2.050 Miscellaneous Rules**

*PURPOSE: This rule incorporates miscellaneous*

*rules pertaining to embalmer's and funeral director's licenses.*

(1) All licensees may be represented before the board by an attorney. If the licensee desires to be represented by an attorney, the attorney shall be licensed to practice law in Missouri or meet the requirements of the Supreme Court with respect to nonresident attorneys.

(2) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

(3) All documents filed with the board shall become a part of its permanent files.

*AUTHORITY: section 333.111, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.050.*

*Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982.*

*Amended: Filed Nov. 1, 2001, effective April 30, 2002. Amended: Filed Dec. 31, 2003,*

*effective July 30, 2004. Moved to 20 CSR 2120-2.050, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

*\*Original authority: 333.111, RSMo 1965, amended 1981, 1993, 1995.*

**20 CSR 2120-2.060 Funeral Directing**

*PURPOSE: This rule outlines the provisions for the practice of funeral directing.*

(1) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo shall provide the following

to the board:

(A) Proof of being at least eighteen (18) years of age;

(B) Proof of possession of a high school diploma or equivalent;

(C) Evidence of being a person of good moral character;

(D) Proof of satisfactory completion of each section of the funeral director's examination;

(E) Affidavit of completion of a twelve (12) consecutive month apprenticeship; or official transcript and documentation indicating he/she is a graduate of an institute of mortuary science accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department for Funeral Service Education; or has successfully completed a course in funeral directing offered by a college accredited by a recognized national, regional, or state accrediting body and approved by the State Board of Embalmers and Funeral Directors; or proof of being a Missouri licensed embalmer;

(F) Completed application form provided by the board;

(G) Proof of successful completion of the National Board Funeral Service Arts examination

or the Missouri Funeral Service Arts examination, if applicable;

(H) Payment of all applicable fees;

(I) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. (fingerprinting rule)

Applicants shall submit to the board the applicable fee for the criminal history background check as



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determined by the Missouri State Highway Patrol; and

(J) Any other information the board may require.

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application fee directly to the board. If the applicant has successfully completed the National Board Funeral Service Arts examination, no Missouri Funeral Service Arts examination is required. Application forms can be obtained from the board office or the board's website [at <http://pr.mo.gov/embalmers.asp>].

(3) Effective July 30, 2004, the funeral director examination developed by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, shall consist of the Missouri Law section and the Missouri Funeral Service Arts section. In lieu of the Missouri Funeral Service Arts examination, successful completion of the National Board Funeral Service Arts examination results will be accepted.

(4) To serve as an apprentice funeral director, the applicant shall file with the board a completed funeral director application on the form prescribed by the board and pay applicable fees

[and also shall complete an application to be registered as an apprentice funeral director on the form prescribed

by the board and pay all applicable fees. ]Application forms and a list of fees can be obtained from the board office or on the board's website[ at <http://pr.mo.gov/embalmers.asp>].

(5) The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. Accordingly, effective February 28, 2010, an apprentice shall not be allowed to register with the board for more than two (2) apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.

(6) Each registered funeral director apprentice

shall provide to the board, on the application prescribed by the board, the name(s), location(s), and license number(s) of each funeral establishment(s) where [they are] s/he is serving

as an apprentice. Upon completed application and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. [The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.]

(7) The funeral director apprentice registration authorizes the registrant to engage in the practice of funeral directing only during the period of apprenticeship. Once the apprenticeship

is successfully completed as defined in this rule, the funeral director apprentice registration shall become null and void. Any Missouri licensed funeral director who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of funeral directing before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.121.2, RSMo.

(8) [Each registered funeral director apprentice shall provide to the board, on the application prescribed by the board, the name(s), location(s), and license number(s) of each funeral establishment(s) where they are serving as an apprentice. ]The funeral director apprenticeship may be served at a funeral establishment licensed by a state, other than Missouri, upon submission of proof to the board that the out-of-state funeral home is licensed for the care and preparation for burial and transportation of human dead in this state or another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirement for admission to practice funeral directing in this state. The funeral director apprenticeship shall be served under the supervision of a Missouri licensed funeral director. If the funeral director apprentice changes funeral establishments during the course of the apprenticeship, the apprentice



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shall notify the board, on the form prescribed by the board, of the name(s), location(s), and funeral establishment(s) license number of the new apprenticeship location within ten (10) business days after the change has been made.

(9) Successful completion of a funeral director apprenticeship shall consist of the following:

(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment; and  
(B) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that he/she has arranged for and conducted a minimum of ten (10) funeral ceremonies

under the supervision of a Missouri licensed funeral director.

(10) An apprentice will be eligible to take the The funeral director examination after completion of the twelve (12) consecutive month period of apprenticeship.

(11) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each section.

If the applicant fails a section of the examination, the applicant shall be permitted to retake that section of the examination. A mandatory

thirty (30) day waiting period is required between all examinations.

(12) All notifications for the funeral director's examination shall be in writing and received by the board at least fifteen [forty-five (45)]

15 days prior to the date the candidate plans to sit for the examination.

(13) A college accredited by a recognized national, state, or regional accrediting body may seek the approval of the State Board of Embalmers and Funeral Directors for a course of study in funeral directing by submitting a description of the program, the college catalog listing the course of study, and evidence that the program has been approved to be offered in that institution by the administration

of the college and the Missouri Coordinating Board for Higher Education.

(14) An applicant shall be exempt from the

requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board if the current license remains in active status. (new rule)

(15) Any funeral director or funeral establishment

that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director or funeral establishment shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person.

This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

(16) A Missouri licensed funeral director shall be present and personally shall supervise or conduct each funeral ceremony conducted by or from a Missouri licensed funeral establishment. A violation of this section will be considered misconduct in the practice of funeral directing.

(17) A Missouri licensed funeral director shall be present and personally shall supervise any disinterment, interment, entombment, or cremation as defined in 20 CSR 2120-1.040 conducted by a Missouri licensed funeral establishment. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the disinterment does not require legal notification

to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.

(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been complete,

the Missouri licensed funeral director is not required to stay with the body.

(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri



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licensed funeral director of any responsibilities he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

(18) Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

(19) A funeral director or funeral establishment licensed in another state that enters the state of Missouri solely for the purpose of transporting a dead human body through Missouri to another state, country, or territory shall not be deemed to be in the practice of funeral directing or required to obtain a license from the board. This regulation does not exempt any person or entity from complying with any applicable statutes or regulations governing the transportation of dead human bodies, including, but not limited to, Chapters 193 and 194, RSMo.

(20) A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following atneed arrangements with the person having the right to control the incidents of disposition:

(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;  
(B) Embalming, cremation, care, or preparation; and

(C) Nothing in this subsection shall be construed to apply to persons exempt from Chapter 333, RSMo.

(21) The taking of preliminary information by an unlicensed person will not be construed as the making of at-need funeral arrangements under this rule.

(22) No temporary Missouri funeral director license authorized under section 333.041.7, RSMo, will be issued until the board has been advised as to the location of the Missouri licensed funeral establishment at which the temporary funeral director's license will be used. The holder of the temporary license shall be authorized to only work at the Missouri licensed funeral establishment(s) where the deceased and/or disabled Missouri licensed funeral director was authorized to work. Violation of this rule will be deemed

unauthorized practice of funeral directing.

(23) The business and practice of funeral directing may be conducted only from a fixed place or establishment which has been licensed by the board.

(24) Limited License.

(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited funeral director shall only engage in the activities of funeral directing authorized for a Function B funeral establishment.

(B) Every person desiring a limited license shall provide the following to the board:

1. Proof of being at least eighteen (18) years of age;
2. Proof of possession of a high school diploma or its equivalent;
3. Evidence of being a person of good moral character;
4. Proof of successful completion by achieving a score of seventy-five percent (75%) or better on the Missouri Law examination;
5. Completed application form as provided by the board;
6. Payment of applicable fees;
7. Payment of any fee charged by the Missouri Highway Patrol for a criminal history background check; and (fingerprinting)
8. Any other information the board may require.

(C) Every limited licensee shall provide the board with the name, location, and license number of each Function B funeral establishment where he/she is employed.

(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.

(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations

OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations.



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The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application. (New rule) [(25) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office(s) or place(s) of business where they work, for inspection by any duly authorized agent of the board.]

(26) Should an individual desire to obtain a Missouri funeral director's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make new application and pay all applicable fees to the board. No previous apprentice, or application, or examination (if applicable) will be considered for the new application. However, the board shall accept the successful completion of the National Board Funeral Service Arts or the Missouri Funeral Service Arts examination for new application.

(27) A Missouri licensed funeral director may engage in the practice of funeral directing in the state of Missouri only in Missouri licensed funeral establishments. Each Missouri licensed funeral director shall inform the board in writing, in a timely manner, of each Missouri licensed funeral establishment name(s), location(s), and license number(s) where the Missouri licensed funeral director is engaged in funeral directing.

(28) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated

or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution

under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(29) Person Deemed to be Engaged in the Practice of Funeral Directing.

(A) No person shall be deemed by the board to be engaged in the practice of funeral

directing or to be operating a funeral establishment

if the person prepares, arranges, or carries out the burial of the dead human body of a member of one's own family or next of kin as provided by section 194.119, RSMo, provided that the activity is not conducted as a business or for business purposes.

(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.

(30) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.041, 333.042, and 333.121, RSMo Supp. 2008, section 333.091, SB 1, Ninety-fifth General Assembly 2009, and section 333.111, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.060. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 2, 1983, effective April 12, 1984. Amended: Filed July 29, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Rescinded and readopted: Filed Sept. 8, 1998, effective Jan. 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed March*



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10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Amended: Filed Sept. 15, 2004, effective April 30, 2005. Moved to 20 CSR 2120-2.060, effective Aug. 28, 2006. Amended: Filed Feb. 16, 2006, effective Sept. 30, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed July 22, 2009, effective Jan. 30, 2010.

\*Original authority: 333.041, RSMo 1965, amended 1969, 1977, 1981, 1983, 1993, 1998, 2001; 333.042, RSMo 1993, amended 1998, 2001; 333.091, RSMo 1965, amended 1981, 2009; 333.111, RSMo 1965, amended 1981, 1993, 1995; and 333.121, RSMo 1965, amended 1981, 2007.

**20 CSR 2120-2.070 Funeral Establishments**

*PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.*

(1) Application for a Missouri licensed funeral establishment license shall be made on the forms provided by the board and shall be accompanied by the appropriate fee. Applications are available from the board's office or the board's website at <http://pr.mo.gov/embalmers.asp>. Each application shall indicate which license classification is being sought.

(2) There shall be the following license classifications:

(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a Function A establishment is prohibited from the care and preparation of dead human bodies other than by embalming, and shall also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies, or selling of funeral merchandise. Each Missouri licensed funeral establishment

used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090. Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room a register log

(B) Function B establishments shall have authority to cremate dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise.

In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains. Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071. This function shall maintain on the premises in the cremation area a cremation log

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. This function shall contain a separate area for the care and custody of dead human remains that is secured with a functioning lock and a separate area for confidential conferences to arrange funeral services. The Function C establishment



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shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment.

This function shall maintain on the Missouri premises the following documents:

- (A) General price list;
- (B) Preneed contracts which have been cancelled or fulfilled;
- (C) Purchase agreements; and
- (D) Authorizations to embalm or cremate.
- (E) Register Log
- (F) Preneeds Contracts

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and shall be operated under the supervision and ownership of a Function C establishment. This function shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment. Each Function D funeral establishment shall maintain on the premises a register log.

(3) If a Missouri licensed funeral establishment wishes to [change or] add to its classification, it shall file a new application for a Missouri licensed funeral establishment indicating its new classification. If a Missouri licensed funeral establishment desires to eliminate one (1) of its functions[, other than a Function C.] it shall notify the board in writing of its intention to surrender the function, but is not required to file a new application for a new Missouri licensed funeral establishment.

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment

has a separate entrance and a separate street address.

(5) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

(6) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition. A Missouri licensed funeral establishment shall maintain a current and active authorization to conduct business in Missouri with the Missouri Secretary of State.

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes [for a period of more than thirty (30) days], the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within [thirty (30)] fifteen (15) days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

(8) Within thirty (30) days after an application for a Missouri licensed funeral establishment has been received in the board's office, the board shall cause the establishment to be inspected. The board shall act on the application and, within thirty (30) days after the application was received in the board's office, the applicant will be advised whether the license is granted or denied. If an applicant determines the establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant



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in writing to the board before the application expires. Each request for an extension shall be received by the board prior to the expiration of the application or extension period.

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application [within thirty (30) days] prior to [after] the change of ownership. This form shall be filled out completely with correct, current information].

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) license will be issued by this board for any physical facility that is considered

to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule.

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with



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the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.[121]330, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be kept free and clean of litter, dirt, debris, and clutter or other objects or conditions which present a potential or actual hazard to the health, safety, or welfare of the public.

[(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.]

[(16) Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090.]

(17) No person shall be permitted in a preparation room during the course of embalming a dead human body except the employees of the Missouri licensed funeral establishment in that the human body is being embalmed, members of the family of the deceased, and persons authorized by the members of the family of the deceased, or any person otherwise authorized by law.

[(18) Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071.]

[(19) Each Function C establishment shall contain a separate area for the care and custody of dead human remains and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records.

(20) Each Function C or Function D establishment

shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment.]

(21) According to section 333.[121.2(17)]330, RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed

body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

(A) The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(B) Any person or friend who assumes responsibility for the disposition of the deceased's remains if no next of kin assumes such responsibility may authorize to embalm the deceased;

(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;

(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;



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(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections (21)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and

(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

(22) Each Missouri licensed funeral establishment shall maintain documentation of the following information regarding authorization to embalm a body which is embalmed by or on behalf of the Missouri licensed funeral establishment—

(A) When authorization to embalm is given in writing:

1. The name and signature of the person who is authorizing embalming;
2. The relationship of that person to the deceased;
3. The time and date authorization to embalm was given; and
4. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment; and

(B) Authorization to embalm shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to

embalm is given, the Missouri licensed funeral establishment shall document:

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;
2. The relationship of that person to the deceased;
3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;
4. The time and date authorization to embalm was given; and
5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

[(23) Each Function C funeral establishment shall maintain on the Missouri premises the following documents:

(A) General price list;

(B) Preneed contracts which have been cancelled or fulfilled;

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.]

[(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room a register log.]

(25) Each Function B funeral establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 20 CSR 2120-2.071(1)(D), [and maintain on the premises in the cremation area a cremation log]. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances, and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations; Missouri Department of Natural



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Resources, statutes, rules and regulations; and all other applicable federal, state, city, county, and municipal statutes, rules and regulations. (A) If a Function B establishment has only one (1) cremation chamber, and that chamber is not functioning, notification from the establishment shall be made to the board within ten (10) business days after the cremation chamber stops functioning.

(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment

for purposes of cremation is disclosed to the third party making the arrangements on the cremation authorization form.

1. Cremation areas shall contain only the articles, instruments, and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the entire room where the retort is located and any rooms used for viewing or visitation of a dead human body awaiting cremation or that is being cremated or being removed from the cremation chamber. This paragraph (25)(B)1. shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to April 1, 2008, provided that such establishment shall be prohibited

from cremating human remains at the same time or in the same retort as non-human remains.

2. Any establishment containing an area for the cremation of non-human remains prior to April 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation begins ownership of the establishment. This paragraph (25)(B)2. shall not apply if only the owners of the stock of a corporation changes.

3. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains.

(26) All documents required by this rule to be maintained, shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents

required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee

(27) Each funeral establishment shall maintain a register log, as defined by 20 CSR

2120-1.040(21). [The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector.

If the funeral establishment does not contain a preparation or embalming room, ] T[t]he log shall be kept on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall contain the information required by 20 CSR 2120-1.040(21).

(28) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(A) Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

(29) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

(30) Whenever a dead human body is donated to a medical or educational institution for



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medical and/or scientific study and arrangements for return of the body to the legal next of kin have not been made, then delivery of the body to the medical or educational institution shall constitute final disposition. If, however, arrangements for return of the body to the legal next of kin have been made, then final disposition shall be the burial, interment, cremation, or removal of the body out of this state, after the medical or educational institution has returned the body.

(31) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.061 and 333.121, RSMo Supp. 2008 and sections 333.091, 333.111, and 333.145, RSMo 2000.\* This rule originally filed as 4 CSR 120-2.070. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 6, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Rescinded and readopted: Filed May 28, 1987, effective Sept. 11, 1987. Amended: Filed June 24, 1988, effective Sept. 29, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.070, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2007, effective*

*May 30, 2008. Amended: Filed April 8, 2009, effective Oct. 30, 2009.*

*\*Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981, 2007; and 333.145, RSMo 1981.*

**20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area**

*PURPOSE: This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.*

*[(1) Definitions.*

*(A) Cremated remains—the bone fragments which remain after the cremation process is completed.*

*(B) Cremation—the technical heating process which reduces remains to bone fragments*

*through heat and evaporation; a final disposition of dead human remains.*

*(C) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.*

*(D) Cremation chamber—the total functioning mechanical unit for the actual cremation process.*

*(E) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.*

*(F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.*

*(G) Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.*

*(H) Short-term storage—storage for a period of thirty (30) days or fewer.*

*(I) Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.]*

*(2) No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.*

*(3) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:*

*(A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body*



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which shows the time and date when authorization

for cremation was given; and

(B) Information regarding the cremation which shall include:

1. The full name of the deceased;
2. The last place of residence of the deceased;
3. The place of death of the deceased;
4. The place of birth of the deceased;
5. The date and place of the funeral;
6. The name of the Missouri licensed funeral director, other than a limited license funeral director, with whom the arrangements were made;
7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
8. The date and time when cremation was begun;
9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and
10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

[(4) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:

- (A) The name of the deceased to be cremated;
- (B) The name of the Missouri licensed establishment where the body is cremated;
- (C) The date and time the body arrived at the crematory;
- (D) The date and time the cremation took place;
- (E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;
- (F) The supervising Missouri licensed funeral director's license number or the supervising Missouri licensed embalmer's license number; and
- (G) The name of the Missouri licensed funeral establishment or other that was in charge of making the arrangements if from a different location.]

(5) All records required to be maintained by

this rule shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

(6) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(7) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment

in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twentyfour (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.

(8) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and protect the surrounding structure. A Function B establishment shall not be in violation

of this rule if the cremation chamber is



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completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, city, county, and municipal statutes, rules and regulations. (A) If a Function B has only one (1) cremation chamber and that chamber is not functioning, written notification shall be made to the board within ten (10) business days after the cremation chamber stops functioning. (B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the person making the arrangements on the cremation authorization form. (9) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present. (10) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law. (11) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by

the funeral establishment.

(12) Each body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease.

Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made, in accordance to 193.175.

(13) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

(14) No body shall be cremated with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(15) No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

[(16) Except for metal containers or caskets, each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated. If a metal container or casket is used, the purchaser shall be informed by the funeral director at the time the arrangements are made of the disposition of the metal container or casket after cremation, if the container or casket is not to be placed in the



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retort. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.]

(17) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(18) Following the completion of the cremation process, all residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(19) If the cremated remains do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

(20) If the cremated remains will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

(21) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

(22) If the cremated remains are to be shipped, the cremation box shall be packed securely in a corrugated cardboard box which is securely closed with tape acceptable to the shipper.

(23) Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

(24) Each urn into which cremated remains are placed shall be made of a durable material which shall enclose the cremated remains entirely.

(25) Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed, or shipped pursuant to the instructions of the person(s) entitled to custody or

control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent

upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation. (new Health law on disposal of cremated remains)

(26) Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

(27) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.061 and 333.121, RSMo Supp. 2008 and sections 333.111 and 333.145, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.071. Original rule filed May 29, 1987, effective Sept. 11, 1987.*

*Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed April 16, 1990, effective Sept. 28, 1990. Amended: Filed Nov. 15, 1991, effective April 4, 1992.*

*Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.071, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed April 8, 2009, effective Oct. 30, 2009.*

*\*Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965 amended 1981, 2007; and 333.145, RSMo 1981.*



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**20 CSR 2120-2.080 Written Statement of Charges**

*PURPOSE: This rule establishes a minimum disclosure requirement to provide better safeguards to Missouri citizens purchasing funeral services and merchandise and in particular, purchases of caskets and outer burial containers by requiring specific identifying information to be included on the written statement of charges.*

- (1) Every Missouri licensed funeral director responsible for providing funeral services or arranging for the delivery of any funeral merchandise, shall give or cause to be given to the person(s) making such arrangements a written statement of charges for the funeral merchandise and funeral services selected.
- (2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise. At a minimum, the written statement of charges shall contain the following:
- (A) The name and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;
  - (B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;
  - (C) The name, address and signature of the person making the at-need arrangements;
  - (D) The date of the signatures;
  - (E) The name of the deceased;
  - (F) The date of death;
  - (G) The price of the service(s) selected and the price of the supplemental (additional) items;
  - (H) The price of the merchandise selected including a detailed description of the casket and outer burial container;
  - (I) The amount and description of all cash advance items; and
  - (J) The method of payment.
- (3) A preneed contract shall not be substituted for the written statement of charges [required by the this rule.]
- (4) Violations of this rule will be deemed misconduct in the practice of funeral directing.

(5) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.111 and 333.145, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.080. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Nov. 10, 1976, effective March 11, 1977. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1978. Rescinded: Filed Jan. 13, 1982, effective April 11, 1982. Readopted: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed May 3, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2120-2.080, effective Aug. 28, 2006. \*Original authority: 331.111, RSMo 1965 amended 1981, 1993, 1995 and 333.145, RSMo 1981.*

**20 CSR 2120-2.090 Preparation Rooms/Embalming Room**

*PURPOSE: This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.*

- (1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.
- (2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.
- (3) Floors, Walls and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. [Floor drains shall be provided where the floor is to be subjected to cleaning by flooding.] All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.
- (4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services <http://www.dhss.mo.gov> rules and regulations,



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Missouri Department of Natural Resources rules and regulations

<http://dnr.mo.gov>,

and all other applicable county, city, municipal and state

rules and regulations relating to **containment backflow prevention devices**, plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.

(5) Sewage and Liquid Waste Disposal.

(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Department of Health and Senior Services and Department of Natural Resources.

(B) The following aspirators are approved for preparation rooms:

1. Electric aspirators;
2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker approved by the American Society of Sanitary Engineering (ASSE) or by the *Uniform Plumbing Code* and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table ;and

[3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the *Uniform Plumbing Code*, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the *Uniform Plumbing Code*.]

(6) Solid Waste Disposal.

(A) All waste materials.

refuse, bandages, cotton and other solid waste materials shall be kept in a leakproof, nonabsorbent containers which shall be covered with tight-fitting lids. [prior to disposal.] Destruction shall be within city, county and state government regulations.

[(B) All waste materials, refuse, and used bandage and cotton shall be destroyed by reducing to ashes through incineration or shall be sterilized and buried. Sterilization may be accomplished by soaking for thirty

(30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.]

(7) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(8) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.

(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities shall exist for the proper disinfection

of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments shall be maintained.

At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and

(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

[(10) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction

and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided,



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however, that coffee service utilizing  
singleservice

cups and spoons and a coffeemaker of  
easily cleanable construction shall be deemed  
acceptable where this service is the only food  
service offered.

(C) A Missouri licensed funeral home providing  
coffee service utilizing single-service  
items and coffeemakers of easily cleanable  
construction shall provide a water supply  
faucet at a suitable sink of easily cleanable  
construction for the filling and cleaning of  
this equipment in an area separate from the  
preparation room and restrooms.]

(11) A separate wash sink (separate from slop  
drain sink) shall be present or in close proximity  
to the preparation room for a personal  
hand wash facility for Missouri licensed  
embalmers and the disinfecting of embalming  
equipment. If the wash sink is not present in  
the preparation room, it shall be in a location  
close to the preparation room which is not  
accessible to the public and it shall be at a  
distance of no further than ten feet (10') from  
the door of the preparation room.

(12) Preparation rooms shall contain only the  
articles, instruments, and items that are necessary  
for the preparation, embalming, and  
final disposition of dead human bodies.

(13) Preparation rooms shall be secured with  
a functional lock so as to prevent entrance by  
unauthorized persons.

(14) The rules in this division are declared  
severable. If any rule, or section of a rule, is  
held invalid by a court of competent jurisdiction  
or by the Administrative Hearing Commission,  
the remaining provisions shall  
remain in full force and effect unless otherwise  
determined by a court of competent  
jurisdiction or by the Administrative Hearing  
Commission.

*AUTHORITY: sections 333.111.1, RSMo 2000  
and 192.020 and 333.061, RSMo Supp.  
2006. \* This rule originally filed as 4 CSR  
120-2.090. Original rule filed Oct. 17, 1975,  
effective Oct. 28, 1975. Refiled March 24,  
1976. Emergency rule filed Nov. 9, 1978,  
effective Nov. 20, 1978, expired Feb. 11,  
1979. Rescinded and readopted: Filed Nov.  
8, 1978, effective Feb. 11, 1979. Rescinded  
and readopted: Filed Jan. 13, 1982, effective  
April 11, 1982. Amended: Filed Aug. 13,  
1984, effective Jan. 13, 1985. Amended:  
Filed June 2, 1986, effective Sept. 1, 1986.  
Amended: Filed Nov. 15, 1991, effective April*

*4, 1992. Amended: Filed May 26, 1993,  
effective Nov. 8, 1993. Amended: Filed May  
16, 1995, effective Dec. 30, 1995. Amended:  
Filed Dec. 31, 2003, effective July 30, 2004.  
Moved to 20 CSR 2120-2.090, effective Aug.  
28, 2006. Amended: Filed Jan. 30, 2007,  
effective July 30, 2007.*

*\*Original authority: 192.020, RSMo 1939,  
amended  
1945, 1951, 2004; 333.061, RSMo 1965,  
amended 1981,  
2001; and 333.111, RSMo 1965, amended 1981,  
1993,  
1995.*

**[20 CSR 2120-2.100 Fees**

**PURPOSE:** *This rule establishes and fixes the  
various fees and charges authorized by Chapter  
333, RSMo.*

(1) The following fees hereby are established  
by the State Board of Embalmers and Funeral  
Directors:

(A) Embalmer Practicum Student

Registration Fee \$ 25

(B) Embalmer \$200

(C) Embalmer Oral

Examination Fee \$125

(D) Embalmer Reciprocity

Application Fee \$300

(E) Embalmer Biennial Renewal  
Fee \$200

(F) Funeral Director

Application Fee \$200

(G) Funeral Director Limited

License Application Fee \$200

(H) Funeral Director Reciprocity

Application Fee \$300

(I) Funeral Director Biennial

Renewal Fee \$200

(J) Reactivation Fee (up to one

(1) year after lapse) \$100

(K) Reactivation Fee (up to two

(2) years after lapse) \$200

(L) Establishment Application  
Fee \$300

(M) Amended Establishment

Application Fee \$ 25

(N) Establishment Biennial

Renewal Fee \$250

(O) Reciprocity Certification

Fee \$ 10

(P) Duplicate Wallhanging Fee \$ 10

(Q) Collection Fee for Bad

Checks \$ 25

(R) Law Book Requests \$ 5\*

(S) Examination Review Fee \$ 25



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(T) Background Check Fee  
(amount determined by the  
Missouri State Highway  
Patrol)  
(U) Provider License Application  
Fee (if no Funeral Establishment  
license) \$200  
(V) Provider License Application  
Fee (if also Funeral  
Establishment license) \$100  
(W) Provider Biennial Renewal  
Fee \$\*\*  
(X) Seller License Application  
Fee \$75  
(Y) Seller Biennial Renewal Fee \$ \*\*  
(Z) Seller Agent Registration Fee \$ 50  
(AA) Seller Agent Biennial  
Registration Renewal Fee \$ \*\*  
(BB) Seller Annual Report Fee \$ \*\*  
(CC) Seller Annual Report Late  
Fee \$ \*\*  
(DD) Seller Agent Law Examination  
Fee \$\*\*  
(EE) Seller per Contract Annual  
Reporting Fee (for contracts  
executed on or after August  
28, 2009) \$ 36  
(FF) Amended Provider Application  
Fee \$25  
(GG) Amended Seller Application  
Fee \$25  
[\*This fee will not apply to the initial copy of  
the law book which is automatically mailed  
to all applicants for licensure and to educational  
institutions of mortuary science. Furthermore,  
this fee will not be charged to  
licensees or any other individual, for additions  
or corrections to the law book after  
the initial copy is mailed.  
\*\*This fee is not yet determined by the  
board.  
(2) All fees are nonrefundable.  
(3) The provisions of this rule are severable.  
If any fee fixed by this rule is held invalid by  
a court of competent jurisdiction, the remaining  
provisions of this rule shall remain in full  
force, unless otherwise determined by a court  
of competent jurisdiction.  
*AUTHORITY: section 333.111.1, RSMo 2000  
and section 333.340, RSMo Supp. 2009. \*  
This rule originally filed as 4 CSR 120-2.100.  
Emergency rule filed June 30, 1981, effective  
July 9, 1981, expired Nov. 11, 1981. Original  
rule filed June 30, 1981, effective Oct. 12,  
1981. Emergency amendment filed April 7,*

*1982, effective April 17, 1982, expired Aug.  
14, 1982. Amended: Filed April 13, 1982,  
effective July 11, 1982. Amended: Filed June  
9, 1982, effective Sept. 12, 1982. Amended:  
Filed Aug. 9, 1982, effective Nov. 11, 1982.  
Amended: Filed Jan. 13, 1984, effective April  
12, 1984. Amended: Filed Aug. 9, 1984,  
effective Jan. 13, 1985. Amended: Filed Feb.  
7, 1985, effective May 11, 1985. Amended:  
Filed Sept. 12, 1985, effective Dec. 26, 1985.  
Amended: Filed Oct. 3, 1986, effective Jan.  
12, 1987. Amended: Filed Dec. 2, 1986,  
effective March 12, 1987. Amended: Filed  
March 2, 1987, effective May 25, 1987.  
Amended: Filed March 16, 1988, effective  
July 28, 1988. Amended: Filed Sept. 6, 1988,  
effective Dec. 11, 1988. Amended: Filed Dec.  
2, 1988, effective March 11, 1989. Amended:  
Filed July 17, 1989, effective Oct. 12, 1989.  
Amended: Filed Dec. 4, 1989, effective  
March 11, 1990. Amended: Filed March 12,  
1991, effective Aug. 30, 1991. Amended:  
Filed Oct. 16, 1991, effective May 14, 1992.  
Amended: Filed Feb. 1, 1994, effective July  
30, 1994. Amended: Filed June 9, 1995,  
effective Dec. 30, 1995. Rescinded and  
readopted:  
Filed April 16, 1996, effective Nov.  
30, 1996. Amended: Filed Dec. 22, 1997,  
effective June 30, 1998. Amended: Filed  
Sept. 8, 1998, effective Jan. 30, 1999.  
Amended: Filed March 24, 1999, effective  
Oct. 30, 1999. Amended: Filed July 26,  
1999, effective Jan. 30, 2000. Amended:  
Filed Dec. 30, 1999, effective June 30, 2000.  
Amended: Filed Aug. 18, 2000, effective Feb.  
28, 2001. Amended: Filed April 6, 2001,  
effective Oct. 30, 2001. Amended: Filed Dec.  
31, 2003, effective July 30, 2004. Moved to  
20 CSR 2120-2.100, effective Aug. 28, 2006.  
Amended: Filed Jan. 30, 2007, effective July  
30, 2007. Emergency amendment filed Sept.  
24, 2009, effective Oct. 4, 2009, expired  
April 1, 2010. Amended: Filed Sept. 24,  
2009, effective April 30, 2010.  
\*Original authority: 333.111, RSMo 1965,  
amended 1981,  
1993, 1995 and 333.340, RSMo 2009.]  
**[20 CSR 2120-2.105 Preneed Fees**  
**PURPOSE:** This rule establishes and fixes the  
fee for registration as a preneed contract seller  
and as a preneed contract provider.  
(1) The following registration fees for preneed  
funeral contract sellers and providers  
are established by the State Board of*



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Embalmers and Funeral Directors:

(A) Seller Registration Fee \$125.00;

(B) Provider Registration Fee

(per funeral establishment) \$125.00;

(C) Processing an Amended

Seller Registration Fee \$ 25.00;

and

(D) Processing an Amended

Provider Registration Fee \$ 25.00.

(2) All fees are nonrefundable.

(3) The provisions of this rule are declared severable. If either fee fixed by this rule is held invalid by a court of competent jurisdiction, or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.111(2), RSMo Supp. 1993 and 436.071, RSMo 1986. \* This rule originally filed as 4 CSR 120-2.105. Emergency rule filed Aug. 5, 1982, effective Aug. 15, 1982, expired Nov. 15, 1982. Original rule filed Aug. 5, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Moved to 20 CSR 2120-2.105, effective Aug. 28, 2006.*

*\*Original authority: 333.111(2), RSMo 1965, amended*

*1981, 1993 and 436.071, RSMo 1982.]*

**20 CSR 2120-2.110 Public Complaint Handling**

**and Disposition Procedure**

*PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of public complaints by the board, pursuant to the mandate of section 4.16(6) of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo.*

(1) The State Board of Embalmers and Funeral Directors shall receive and process each complaint made against any licensee, permit holder, registrant of the board or unlicensed individual or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 333, RSMo. Any member of the public or the profession, or any federal, state or local officials may make and file a complaint with the board. Complaints shall be received from sources outside Missouri and processed in the same manner as

those originating within Missouri. No member of the State Board of Embalmers and Funeral Directors shall file a complaint with this board while s/he holds that office, unless that member excuses him/herself from further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints should be mailed or delivered to the following address: Executive Director, State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaint may be made based upon personal knowledge, or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints shall be made on forms provided by the board and available upon request. Oral or telephone communications will not be considered or processed as complaints, but the person making these communications will be provided with a complaint

form and requested to complete it and return it to the board in written form. Any member of the administrative staff of the board or any member of the board may make and file a complaint based upon information and belief, in reliance upon oral, telephone or written communications received by the board, unless those communications are believed by that staff member to be false.

(4) Each complaint received under this rule shall be logged in a book and/or database maintained by the board for that purpose. Complaints shall be logged in consecutive order as received. The logbook and/or database shall contain a record of each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board or informal charges being filed with the Administrative Hearing



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Commission; and the ultimate disposition of the complaint. This logbook and/or database shall be a closed record of the board.

(5) Each complaint received under this rule shall be acknowledged in writing. The acknowledgment shall state that the complaint is being referred to the board for consideration at its next regularly scheduled meeting.

The complainant shall be informed as to whether the complaint is being investigated, and later, as to whether the complaint has been dismissed by the board, or is being referred to legal counsel for filing with the Administrative Hearing Commission. The complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and shall be provided with copies of the decisions (if any) of the Administrative Hearing Commission and the board at that time. Provided, that the provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on thirdparty information received by the board.

(6) The chairman of the board, from time-to-time and as s/he deems necessary, may instruct the board inspector/investigator to investigate any complaint before the complaint has been considered at a regularly scheduled board meeting. The inspector/investigator shall provide a report of any actions taken to the board at its next regularly scheduled meeting.

(7) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and shall not be available for inspection by the general public. However, a copy of the complaint and any attachments shall be provided to any licensee who is the subject of that complaint, or his/her legal counsel, upon written request to the board.

(8) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee of the board with any actionable conduct or violation, whether or not the complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board, and whether or not any public complaint has been filed with the board.

(9) The board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit

complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This rule is not deemed to protect, or inure to the benefit of, those licensees or other persons against whom the board has instituted or may institute administrative or judicial proceeding concerning possible violations of the provisions of Chapter 333, RSMo.

*AUTHORITY: sections 333.111, RSMo 2000 and 620.010.15(6), RSMo Supp. 2003. \* This rule originally filed as 4 CSR 120-2.110.*

*Original rule filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.110, effective Aug. 28, 2006.*

*\*Original authority: 333.111, RSMo 1965, amended 1981, 1993 and 620.010, 1973 amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001.*

**20 CSR 2120-2.115 Procedures for Handling Complaints Against Board Members**

*PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of complaints filed against members of the board.*

(1) Complaints against members of the board will be handled in the same manner as complaints

against other licensees with minor variations specifically described in this rule.

(2) When a complaint against a board member is received by the staff, the staff shall take steps to make sure that the complaint is on the proper form(s) (that is, the Uniform Complaint

Form). Once the complaint is received in the proper form, the complaint will be mailed to all members of the board except the member who is the subject of the complaint. The member who is the subject of the complaint will automatically receive a summary of the complaint and will receive all agendas or other notices pertaining to when and where the complaint will be discussed. If the member who is the subject of the complaint requests additional information in writing, that information will be provided by the staff



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in consultation with the chairman (or vicechairman, if the chairman is the subject of the complaint). In no event will the member who is the subject of the complaint be given information

by the board or its staff which would reveal the name of the complainant, unless the member would have access if s/he were not a member of the board. If the board member learns the complainant's identity from the complainant, other board members and the staff subsequently may include the complainant's name in communication with the board member.

(3) At the meeting when the complaint is discussed, the board member who is the subject of the complaint shall not be present during discussion of the complaint unless by vote or consensus the remaining board members request the presence of the board member in question. The board member shall not participate in discussion of the complaint as a member of the board but shall participate in the same manner as any other licensee who is invited to appear before the board to discuss a complaint. The board member may be asked to leave the room at any time during the discussion. The board member shall leave the room prior to any vote which will determine the manner in which the complaint will be handled.

(4) After the remaining board members have completed voting on all action to be taken as a result of the complaint, the board member may return to the room. At that time, the board chairman (or vice-chairman, if the chairman is the subject of the complaint) will inform the board member of the action which the board has decided to take.

(5) If the board decides to have the complaint investigated, a copy of the investigative report will be mailed to all board members except the board member who is the subject of the complaint. The board member who is the subject of the complaint will be sent a copy of any notice or agenda which indicates that the investigative report will be discussed. The meeting at which the investigative report is discussed will follow the same procedures outlined in section (4) for the meeting at which the complaint is discussed.

(6) If the board chooses to take no further action as a result of the complaint or the

investigative report, the board member will be informed of this decision. The board member will not subsequently have access to the investigative report or the complaint unless the member would have that access if s/he were not a member of the board.

(7) If the board chooses to refer the case to the attorney general's office, the board member will be informed of that fact. The board member will not be allowed access to the complaint or investigative report by virtue of his/her status as a board member. If the attorney assigned to the case chooses to release these documents to the board member or if the attorney is required for legal reasons to release these documents to the board member, the board member will be permitted access to the documents released by the attorney.

(8) The board member will not be present during any discussion of the case once the board has voted to refer the case to the attorney general's office. The exception to this rule will be only for prearranged formal meetings to discuss settlement, if the attorneys for both parties agree. The other board members will not discuss the case with the board member who is the subject of the case except at the formal meeting.

(9) The board member has the right to be represented by counsel at all formal or informal proceedings. Admissions made by the board member at or outside a board meeting may be used against the board member at hearing.

(10) The board member shall not have access to that portion of the minutes of any meeting which reflects discussion, motions or votes related to the complaint or case against the board member. These minutes shall be kept separately as special closed minutes and shall not be shared with the board member by the other board members or the staff unless the board member would be entitled to access to the minutes if s/he were not a board member.

(11) The provisions of sections (1)-(10) of this rule shall apply to any complaint against a Missouri licensed funeral establishment at which a member of the board is employed or with which a member of the board is associated.

(12) The provisions of sections (1)-(10) of this rule shall apply to any complaint against any preneed registrant by which a member of the board is employed or with which a member of the board is associated, including, but not limited to, a complaint against a preneed



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seller who sells for a Missouri licensed funeral establishment with which a member of the board is associated. A board member will be considered to be employed by or associated with a preneed registrant if the board member receives a salary or wages from the preneed registrant or if a board member has an ownership interest in a preneed registrant. However, these procedures shall not apply to a board member who only receives commissions from the preneed registrant. Each member of the board shall keep the board's executive director notified of the preneed registrants by which the board member is employed and with which the board member is associated.

(13) The remaining members of the board may vote to exclude a member from participating in any matter based upon a conflict of interest. The vote must be a majority vote of all of the members present and voting except the member who is the subject of the vote. Participation shall include, but not be limited to, receipt of materials, presence during discussion and voting.

*AUTHORITY: section 333.111, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.115. Original rule filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed April 16, 1990, effective Nov. 30, 1990. Amended: Filed April 2, 1992, effective Sept. 6, 1992. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.115, effective Aug. 28, 2006.*

*\*Original authority: 333.111, RSMo 1965, amended 1981, 1993.*

**20 CSR 2120-2.120 Public Records**

*PURPOSE: This rule establishes standards of compliance with Chapter 610, RSMo, as it relates to public records of the State Board of Embalmers and Funeral Directors.*

(1) All public records of the State Board of Embalmers and Funeral Directors shall be open for inspection and copying by the general public at the board's office during normal business hours, holidays excepted, except for those records closed pursuant to section 610.021, RSMo. All public meetings of the State Board of Embalmers and Funeral Directors, not closed pursuant to the provisions of section 610.021, RSMo, will be open to the

public.

(2) The State Board of Embalmers and Funeral Directors establishes the executive director of the board as the custodian of its records as required by section 610.023, RSMo. The executive director is responsible for maintaining the board's records and for responding to requests for access to public records and may appoint deputy custodians as necessary for the efficient operation of the board.

(3) When the custodian believes that requested access is not required under Chapter 610, RSMo, the custodian shall inform the requesting party that compliance cannot be made, specifying what sections of Chapter 610, RSMo, require that the record remain closed. Correspondence or documentation of the denial shall be copied to the board's general counsel. The custodian also shall inform the requesting party that s/he may appeal directly to the board for access to the records requested. The appeal and all pertinent information

shall be placed on the agenda for the board's next regularly scheduled meeting. If the board reverses the decision of the custodian, the board shall direct the custodian to advise the requesting party and supply access to the information during regular business hours at the requesting party's convenience.

(4) The custodian shall maintain a file that will contain copies of all written requests for access to records and responses to these requests. The requests shall be maintained on file with the board for a period of one (1) year and will be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

(5) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost of inspecting and copying the records. The fee charged by the board shall be as follows:

(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication; and

(B) The board may require payment for these Fees prior to making the copies.



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**Title 20—DEPARTMENT OF  
INSURANCE, FINANCIAL  
INSTITUTIONS AND  
PROFESSIONAL REGISTRATION**

**Division 2120—State Board of  
Embalmers and Funeral Directors  
Chapter 3—Preneed**

**20 CSR 2120-3.010 Preneed Seller  
Registration**

*PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed sellers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . . " This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed sellers.*

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed sellers must be made on the forms provided by the board and must be accompanied by the applicable preneed seller registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed sellers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered seller registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept seller registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the registration will be cancelled.

(5) Each person seeking registration as a preneed seller will be required to submit a partial annual report at the time of registration, containing—1) the name and address of the

financial institution in Missouri in which it will maintain the trust accounts required under Chapter 436, RSMo and the account numbers of those trust accounts, 2) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of the trust account designated by depository and account number and 3) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of its books and records relating to the sale of preneed contracts and name and address of the person designated by the seller as custodian of those books and records.

(6) The board will acknowledge receipt of each application for registration as a preneed seller if the application is completed properly and is accompanied by the preneed registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed contract sellers will be provided to any person upon request.

*AUTHORITY: section 333.111.1, RSMo 1986. \* This rule originally filed as 4 CSR 120-3.010. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.010, effective Aug. 28, 2006.*

*\*Original authority: 333.111.1, RSMo 1965, amended 1981.*

**20 CSR 2120-3.020 Preneed Provider  
Registration**

*PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed providers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . . " This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed providers.*

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed providers must be made on the forms provided



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by the board and must be accompanied by the applicable preneed provider registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed providers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible,

the application form and the tendered provider registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept provider registration applications even though certain information is not provided, if the application is accompanied by a statement that the information

will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the provider registration will be cancelled.

(5) Each establishment which is licensed separately by the state board as a funeral establishment must register separately as a preneed provider, if the establishment will perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract. Nothing in this rule will require registration of funeral establishments as preneed providers if the establishment will not perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract.

(6) The board will acknowledge receipt of each application for registration as a preneed provider, if the application is completed properly and is accompanied by the preneed provider registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed providers will be provided to any person upon request.

*AUTHORITY: section 333.111.1, RSMo 1986. \* This rule originally filed as 4 CSR 120-3.020. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.020, effective Aug. 28, 2006. \*Original authority: 333.111.1, RSMo 1965, amended*

1981.

**20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)**

*PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to accept notification of intent to sell assets or cease doing business from persons registered as preneed sellers or preneed providers, or both. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . ." This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in accepting notifications of intent to sell assets or cease doing business from registered preneed sellers or providers, or both.*

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Notification of intent to sell assets or cease doing business must be made on the forms provided by the board.

(3) As part of the notification, each registered seller must inform the board of the actions it has taken or will take to ensure that the trust assets of the seller will be set aside and used to serve outstanding preneed contracts sold by the seller and each registered provider must inform the board of the actions it has taken or will take to ensure that the provider's obligations under preneed contracts will be satisfied.

(4) In its discretion, the board may take reasonable and necessary actions to ensure that the provider's obligations under preneed contracts will be satisfied or that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller.

(5) Failure of the board to take action regarding any sale or termination of business within thirty (30) days of receipt of notification for providers and within sixty (60) days of receipt of notification for sellers will constitute a waiver of the board's authority under Chapter 436, RSMo.

(6) Forms for submitting notifications of intent to sell assets or cease doing business will be provided upon request.



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*AUTHORITY: section 333.111.1, RSMo 1986. \* This rule originally filed as 4 CSR 120-3.030. Original rule filed Jan. 7, 1983, effective June 11, 1983. Moved to 20 CSR 2120-3.030, effective Aug. 28, 2006. \*Original authority: 333.111.1, RSMo 1965, amended 1981.]*

#### **EXISTING FEE RULE**

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(A) Embalmer Practicum Student Registration Fee \$ 25

Embalmer Apprentice Registration Fee \$200

(B) Embalmer License [Application] Fee \$[200]125

[(C) Embalmer Oral Examination Fee \$125]

(D) Embalmer Reciprocity Application Fee \$300

(E) Embalmer Biennial Renewal Fee \$200

(F) Funeral Director Application Fee \$200

(G) Funeral Director Limited License Application Fee \$200

(H) Funeral Director Reciprocity Application Fee \$300

(I) Funeral Director Biennial Renewal Fee \$200

(J) Reactivation Fee (up to one (1) year after lapse) \$100

(K) Reactivation Fee (up to two (2) years after lapse) \$200

(L) Establishment Application Fee \$300

(M) Amended Establishment Application Fee \$ 25

(N) Establishment Biennial Renewal Fee \$250

(O) Reciprocity Certification Fee \$ 10

(P) Duplicate Wallhanging Fee \$ 10

(Q) Collection Fee for Bad Checks \$ 25

(R) Law Book Requests \$ 5\*

(S) Examination Review Fee \$ 25

(T) Background Check Fee (amount determined by the Missouri State Highway Patrol)

(U) Provider License Application Fee (if no Funeral Establishment license) \$200

(V) Provider License Application Fee (If also Funeral Establishment license) \$100

(W) Provider Biennial Renewal Fee \$ \*\*

(X) Seller License Application Fee \$ 75

(Y) Seller Biennial Renewal Fee \$ \*\*

(Z) Seller Agent Registration Fee \$ 50

(AA) Seller Agent Biennial Registration Renewal Fee \$ \*\*

(BB) Seller Annual Report Fee \$ \*\*

(CC) Seller Annual Report Late Fee \$ \*\*

(DD) Seller Agent Law Examination Fee \$ \*\*

(EE) Seller per Contract Annual Reporting Fee (For contracts executed on or after August 28, 2009) \$ 36

(FF) Amended Provider Application Fee \$ 25

(GG) Amended Seller Application Fee \$ 25

\*This fee will not apply to the initial copy of the law book which is automatically mailed to all applicants for licensure and to educational institutions of mortuary science. Furthermore, this fee

will not be charged to licensees or any other individual, for additions or corrections to the law book after the initial copy is mailed.

**\*\*This fee is not yet determined by the board.**

(2) All fees are nonrefundable.

(3) The provisions of this rule are severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force, unless otherwise determined by a court of competent jurisdiction.